

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 MARIO H. CAPOGROSSO

4 Plaintiff,

5 Case No:

6 - against -

1:18-CV-02710

(EKLb)

7 ALAN GELBSTEIN, et al.,

8 Defendants.

9 -----X

10
11 December 18, 2020

9:45 a.m.

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17 VIRTUAL VIDEOTAPED EXAMINATION BEFORE TRIAL OF

18
19 MARIO H. CAPOGROSSO, the Plaintiff, pursuant to

20
21 Notice, taken at the above date and time, before

22
23 MARIA ACOCELLA, a Notary Public within and for the

24
25 State of New York.

<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3</p> <p>4 MARIO H. CAPOGROSSO, ESQ., Pro Se</p> <p>5 21 Sheldrake Place</p> <p>6 New Rochelle, New York 10804</p> <p>7</p> <p>8</p> <p>9</p> <p>10 STATE OF NEW YORK</p> <p>11 OFFICE OF THE ATTORNEY GENERAL</p> <p>12 LETITIA JAMES</p> <p>13 Attorneys for Defendants</p> <p>14 28 Liberty Street</p> <p>15 New York, New York 10005</p> <p>16 BY: JAMES THOMPSON, ESQ.,</p> <p>17 Assistant Attorney General</p> <p>18 Litigation Bureau</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 ALSO PRESENT: Howard Brodsky, Videographer</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 Mario H. Capogrosso</p> <p>2 MR. THOMPSON: Yes. James M.</p> <p>3 Thompson, from the Office of the</p> <p>4 Attorney General, Letitia James,</p> <p>5 Attorney General of the State of</p> <p>6 New York, 28 Liberty Street, New York,</p> <p>7 New York 10005 on behalf of the State</p> <p>8 Defendants.</p> <p>9 THE WITNESS: I am Mario</p> <p>10 Capogrosso, Pro Se Plaintiff who happens</p> <p>11 to also be an attorney; 21 Sheldrake</p> <p>12 Place, New Rochelle, New York 10804.</p> <p>13 THE VIDEOGRAPHER: Thank you,</p> <p>14 Counsel.</p> <p>15 I am sorry. Go ahead.</p> <p>16 MR. THOMPSON: One slight</p> <p>17 correction, Mr. Brodsky, on the case</p> <p>18 number. The suffix is now -- the case</p> <p>19 number is correct, but the suffix is now</p> <p>20 EKL B. A couple of months ago we were</p> <p>21 assigned a different judge.</p> <p>22 THE VIDEOGRAPHER: Thank you very</p> <p>23 much for that correction, Counsel.</p> <p>24 The parties have stipulated and</p> <p>25 agreed that the court reporter may take</p>
<p style="text-align: right;">Page 3</p> <p>1 Mario H. Capogrosso</p> <p>2 THE VIDEOGRAPHER: Good morning. Here</p> <p>3 begins the video recorded virtual</p> <p>4 remote deposition of Mario H.</p> <p>5 Capogrosso, appearing from his location</p> <p>6 in New Rochelle, New York.</p> <p>7 This deposition is taken by the</p> <p>8 Defendants in the matter of Mario H.</p> <p>9 Capogrosso, Plaintiff, against Alan</p> <p>10 Gelbstein, et al. defendants, Case</p> <p>11 Number 1:18-CV-02710 and KBLB in the</p> <p>12 United States District Court for the</p> <p>13 Eastern District of New York.</p> <p>14 Today is Friday, December 18,</p> <p>15 2020. The time is approximately 9:45</p> <p>16 a.m. eastern standard time.</p> <p>17 My name is Howard Brodsky, and I</p> <p>18 am the legal video specialist in</p> <p>19 association with Veritext Legal</p> <p>20 Solutions with offices, located in</p> <p>21 New York, New York. The court reporter</p> <p>22 is Maria Acocella, in association with</p> <p>23 Veritext.</p> <p>24 Will counsel please state their</p> <p>25 appearances for the record.</p>	<p style="text-align: right;">Page 5</p> <p>1 Mario H. Capogrosso</p> <p>2 the witness's oath remotely.</p> <p>3 Will the court reporter please</p> <p>4 swear in the witness.</p> <p>5 THE COURT REPORTER: Can you</p> <p>6 raise your right hand for me.</p> <p>7 Do you solemnly swear the</p> <p>8 testimony you are about to give will be</p> <p>9 the whole truth and nothing but the</p> <p>10 truth, so help you God?</p> <p>11 THE WITNESS: Yes, I do.</p> <p>12 THE COURT REPORTER: Thank you.</p> <p>13 MR. THOMPSON: Thank you very</p> <p>14 much, Mr. Capogrosso.</p> <p>15 M A R I O H. C A P O G R O S S O, the</p> <p>16 Plaintiff herein, having been first duly</p> <p>17 sworn by a Notary Public within and for the</p> <p>18 State of New York, was examined and</p> <p>19 testified as follows:</p> <p>20 EXAMINATION BY</p> <p>21 MR. THOMPSON:</p> <p>22 Q. My name is James Thompson. I am</p> <p>23 Assistant Attorney General, and I represent</p> <p>24 the defendants in this lawsuit.</p> <p>25 So during the deposition there is</p>

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1 Mario H. Capogrosso
2 a couple of preliminaries. I am going to be
3 asking you a number of questions, and there
4 is a handful of things that are helpful to
5 remember for the benefit of the transcript
6 and the court reporter, first of which is
7 when I ask a question, please wait until the
8 end of my question before beginning your
9 answer. That way, we don't have the two of
10 us talking at the same time.
11 If I ask a question that you
12 don't understand, please ask me clarify it.
13 If you give me an answer, I will assume that
14 you understood the question.
15 Similarly, please make all your
16 answers are verbal. In regular conversation
17 you have people respond by nodding their head
18 or shaking their head and saying uh-huh or
19 uh-uh, and that can make the transcript
20 difficult, even in a case like this one,
21 where we have a videographer.
22 And if at any point in the
23 deposition you feel like you need a break,
24 just ask me, and we will take one. I may ask
25 you to finish answering the question that I

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1 Mario H. Capogrosso
2 posed or a short line of questioning. But if
3 you need a break, just let me know, and we
4 will definitely take it.
5 Does all of that make sense?
6 A. Yes.
7 Q. Great. So Mr. Capogrosso, what
8 is your full name?
9 A. Mario H -- Mario Henry
10 Capogrosso.
11 Q. And what is your date of birth,
12 sir?
13 A. July 4, 1961.
14 Q. And have you ever been deposed
15 before?
16 A. No.
17 Q. And do you understand that you
18 are under oath today?
19 A. Yes.
20 Q. And what is your understanding of
21 what that means?
22 A. That I will tell the truth, as I
23 always have.
24 Q. Are you suffering from any
25 illness or other condition that could affect

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1 Mario H. Capogrosso
2 your ability to answer questions truthfully
3 today?
4 A. No.
5 Q. Did you take any medication that
6 could affect your ability to answer questions
7 today?
8 A. No.
9 Q. Is there any other reason why you
10 might not be able to give complete and
11 truthful answers to the questions that you
12 are asked today?
13 A. Absolutely not.
14 Q. Great. Sir, are you represented
15 by counsel?
16 A. I am representing myself. I am
17 an attorney. I am representing myself.
18 Q. And have you ever been
19 represented by counsel in this case?
20 A. No.
21 Q. So what did you do to prepare for
22 today's deposition?
23 A. I read -- I read my complaint. I
24 read all the pleadings that were filed in my
25 complaint. I read all the exhibits that I

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1 Mario H. Capogrosso
2 filed, all the response to discovery that you
3 provided; and that was it.
4 Q. Have you discussed this
5 deposition with anyone?
6 A. No.
7 Q. All right. So, Mr. Capogrosso,
8 where did you grow up?
9 A. In the Bronx, New York.
10 Q. And where did you go to high
11 school?
12 A. Iona Prep in New Rochelle.
13 Q. And college?
14 A. I went to three colleges. I have
15 a bachelor's of art from Columbia University
16 in 1983. And in 1992 I got a bachelor's of
17 science in mechanical engineering from
18 Manhattan College School of Engineering. And
19 I graduated from Quinnipiac School of Law in
20 May of 2000.
21 Q. So tell me about that.
22 You graduated from college in
23 1983m and what did you do after you
24 graduated?
25 A. I worked -- let me look at my

<p style="text-align: right;">Page 10</p> <p>1 Mario H. Capogrosso</p> <p>2 resume.</p> <p>3 I worked as a laborer in a</p> <p>4 construction, which my father was a project</p> <p>5 manager for -- i.e., executive in the</p> <p>6 construction company. I worked for him for</p> <p>7 several years because I enjoyed it, truly</p> <p>8 liked being outside, after sitting in a</p> <p>9 classroom. And I didn't know which direction</p> <p>10 to take my career in. I worked as a laborer.</p> <p>11 Then I worked for a construction</p> <p>12 company as draftsman and as a project</p> <p>13 engineer out in the field.</p> <p>14 Then I went -- decided to get my</p> <p>15 engineering degree, and I went to engineering</p> <p>16 school and finished my engineering degree.</p> <p>17 Q. So why did you decide to get an</p> <p>18 engineering degree?</p> <p>19 A. Because I was working in the</p> <p>20 engineering field. I enjoyed it. I enjoyed</p> <p>21 it very much. I enjoyed the guys I was</p> <p>22 working with. I enjoyed the people I was</p> <p>23 working with. And I enjoyed working with my</p> <p>24 dad very much. And wanted to go back and get</p> <p>25 my engineering degree, which I did.</p>	<p style="text-align: right;">Page 12</p> <p>1 Mario H. Capogrosso</p> <p>2 to different job sites, nuclear sites.</p> <p>3 So -- and the one thing that I</p> <p>4 was taught at these job sites, nuclear sites,</p> <p>5 is that you tell the truth. You be very</p> <p>6 truthful and very direct, because if you</p> <p>7 don't, there are severe consequences. So</p> <p>8 that is my personality.</p> <p>9 Q. Okay.</p> <p>10 A. I worked at nuclear power plants</p> <p>11 and in various parts of the country. It was</p> <p>12 design work and engineering work.</p> <p>13 Q. And you said the name of that</p> <p>14 company was Ebasco Company, I am sorry?</p> <p>15 A. Ebasco, E-B-A-S-C-O, Esbaso,</p> <p>16 which later became Racions (phonetic)</p> <p>17 Engineers and Constructors.</p> <p>18 Actually, before then it was</p> <p>19 Washington Group International.</p> <p>20 Q. And --</p> <p>21 A. Go ahead.</p> <p>22 Q. How long did you work for them?</p> <p>23 A. I worked at -- let me see -- I</p> <p>24 worked between 1992 and 1996 at various</p> <p>25 engineering companies.</p>
<p style="text-align: right;">Page 11</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. And did you like engineering</p> <p>3 school?</p> <p>4 A. I liked -- well, it was fun. I</p> <p>5 mean, I enjoyed the mathematical part of it,</p> <p>6 yes. I enjoyed the people, and I enjoyed</p> <p>7 the -- I was good at it. I was a good</p> <p>8 engineer. I still am a good engineer.</p> <p>9 Q. So how long -- well, actually, I</p> <p>10 am getting ahead of myself.</p> <p>11 What did you do after you</p> <p>12 graduated engineering school?</p> <p>13 A. I worked for an engineering</p> <p>14 company, several engineering companies.</p> <p>15 Q. What did your duties there</p> <p>16 entail?</p> <p>17 A. Well, I was hired by Ebasco</p> <p>18 Engineering. I worked at a nuclear power</p> <p>19 plant as a project engineer, Nuclear power</p> <p>20 plant design engineer.</p> <p>21 I did both design work and</p> <p>22 project work. I was responsible for the</p> <p>23 design work at several nuclear power plants,</p> <p>24 and I enjoyed it. I liked it. It was fun.</p> <p>25 I enjoyed it. I traveled a lot. I had to go</p>	<p style="text-align: right;">Page 13</p> <p>1 Mario H. Capogrosso</p> <p>2 No, I worked -- no, I am sorry.</p> <p>3 1992 to 1994 I worked for Ebasco Engineers,</p> <p>4 then I worked from '94 to '96 with a</p> <p>5 construction company that was doing retrofit</p> <p>6 work on power plants. Then I worked for --</p> <p>7 as a mechanical engineer to 2001, Washington</p> <p>8 Group International, at various other nuclear</p> <p>9 power plants.</p> <p>10 And then I worked for BGA</p> <p>11 Consulting Engineers, which we did also work</p> <p>12 at nuclear plants, because they liked my work</p> <p>13 in 2003.</p> <p>14 Q. And, Mr. Capogrosso, you look</p> <p>15 from the picture as if you are looking at a</p> <p>16 document there; is that correct?</p> <p>17 A. My resume.</p> <p>18 Q. Can I ask for a copy of that to</p> <p>19 be produced to us?</p> <p>20 A. Yeah, sure.</p> <p>21 Q. Do you have any other documents</p> <p>22 that you are looking at, as you are giving</p> <p>23 testimony today?</p> <p>24 A. Well, I have all the exhibits</p> <p>25 that I provided to you yesterday and I</p>

4 (Pages 10 - 13)

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1 Mario H. Capogrosso
 2 provided in this case, and I have all your
 3 discovery. That is what I have to refresh my
 4 recollection.
 5 Q. Okay. So can you list for me the
 6 documents you have in front of you? Because
 7 normally when you do a deposition, there is
 8 no documents in front of the witness other
 9 than what is put in front of them as an
 10 exhibit.
 11 A. Well, I do have certain exhibits.
 12 I have all the exhibits that were provided to
 13 you yesterday. That is what I have. That is
 14 what I have in front me.
 15 Q. Okay.
 16 A. There are 86 exhibits. I have
 17 all 86 exhibits. You don't want me to refer
 18 to them to refresh my recollection, well,
 19 then you have to make an objection, but that
 20 is what I have in front me.
 21 Q. The problem is that since we are
 22 on Zoom, I can't see what is in front of you
 23 in the way I could if we were all around the
 24 table together. So can I ask you to please
 25 clear the desk in front of you.

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1 Mario H. Capogrosso
 2 A. It is cleared. It is cleared.
 3 Q. Thank you.
 4 So, Mr. Capogrosso, why did you
 5 decide to go to law school?
 6 A. I liked learning. I liked, you
 7 know, pursuing academic endeavors.
 8 And truthfully, I was married and
 9 divorced, and I was sitting in my apartment
 10 all alone. I said -- I had nothing to do at
 11 night. Let me go to law school; it will give
 12 me something to do.
 13 I put in an application. I take
 14 the exam. And I didn't study very long for
 15 the exam; took the book, I read through it.
 16 They accepted me into law school.
 17 So rather than sitting at home in the
 18 apartment, I figured let me sit in a law
 19 school. So I worked as an engineer during
 20 the day, and at night I went to law school,
 21 for four years. Helped me get through my
 22 divorce, kept me busy.
 23 Q. And did you have a particular
 24 career intention when you applied to law
 25 school?

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1 Mario H. Capogrosso
 2 A. Not really. Not really.
 3 I worked as an engineer after I
 4 graduated. I graduated in 2000. I still
 5 enjoyed working as an engineer.
 6 But the company I worked for
 7 wanted me to travel, and I didn't want to
 8 travel anymore. They wanted me to go to the
 9 west coast, California, and be an engineer in
 10 one of the power -- out in Washington State,
 11 actually, not California.
 12 I didn't want to go to Washington
 13 State. I just didn't. I said, let me -- I
 14 passed two bars, New York and Connecticut,
 15 but I was still working as an engineer.
 16 I said, all right. Let me send
 17 out a resume, see if somebody gives me a job.
 18 I got a job offer, and I went and took it.
 19 Q. And where -- where was that job
 20 offer?
 21 A. That job offer was at the
 22 Brooklyn TVB.
 23 Q. Okay. So you applied to work at
 24 the Brooklyn TVB?
 25 A. No. I applied to an attorney,

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1 Mario H. Capogrosso
 2 Terry Kalker, who is a lawyer down there who
 3 was looking for a lawyer. I sent him [sic]
 4 my resume. She [sic] responded. I said, you
 5 know, I don't know what type of work she did.
 6 But I went down, started working
 7 for her as one of her attorneys.
 8 Q. And how do you spell Ms. Kalker's
 9 name?
 10 A. K-A -- I think K-A-L-K-E-R.
 11 Q. And so can you tell me a little
 12 bit about working for Ms. Kalker?
 13 A. Well, when I worked for her, it
 14 seemed fine when I first started. When I
 15 first started, it seemed fine.
 16 But she made certain
 17 representations to me that she didn't
 18 fulfill. Now I was getting -- now medical
 19 insurance is very important to me, and making
 20 a representation of following through with it
 21 is very important to me.
 22 She made a representation that I
 23 would have medical insurance after three
 24 months. I worked for her for three months,
 25 and I said, where is my medical insurance?

<p style="text-align: right;">Page 18</p> <p>1 Mario H. Capogrosso</p> <p>2 Because I had it in my previous job.</p> <p>3 Working for an engineer, if they</p> <p>4 say something, they do it.</p> <p>5 Terry Kalker didn't do that. She</p> <p>6 said, well, you will get medical insurance a</p> <p>7 year and three months from now, which upset</p> <p>8 me greatly, very greatly.</p> <p>9 So at that point I said, all</p> <p>10 right, you don't want to pay me medical</p> <p>11 insurance, you are not upholding what you</p> <p>12 said you were going to do.</p> <p>13 I left her and went into practice</p> <p>14 for myself. And that is what I started doing</p> <p>15 in June, June of 2005. I started work for</p> <p>16 Terry Kalker in April 2005, April or March of</p> <p>17 2005. I only spent three or four months with</p> <p>18 her.</p> <p>19 Q. And how did she respond when you</p> <p>20 objected?</p> <p>21 A. She continued with that</p> <p>22 affirmation, you will get your insurance from</p> <p>23 a year. I said, that is unacceptable. I</p> <p>24 said, you can't make a representation and</p> <p>25 don't follow through with it.</p>	<p style="text-align: right;">Page 20</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. And that is without expenses?</p> <p>3 A. Without expenses. Without</p> <p>4 medical insurance. No, maybe it was 50. I</p> <p>5 am not sure. I think maybe it was 50. Maybe</p> <p>6 it was 50. I think she offered 40, and I got</p> <p>7 her up to 50, something like that, between 40</p> <p>8 and 50. It was either 40 or 50. I am not</p> <p>9 exactly sure. I don't remember. She paid</p> <p>10 me, you know, a weekly check. It might have</p> <p>11 been 50. Might have been.</p> <p>12 Q. And how did that compare to your</p> <p>13 engineer -- your work at the engineering</p> <p>14 firm? What were you paid there?</p> <p>15 A. I was paid more, and they were</p> <p>16 paying expenses. I don't recall the exact</p> <p>17 last salary I had as an engineer, but it was</p> <p>18 more than that.</p> <p>19 Q. Do you have a ballpark figure,</p> <p>20 approximately?</p> <p>21 A. Maybe 57 or 80, plus they gave me</p> <p>22 per diem, which means when I went to a job</p> <p>23 site, which I often did, they gave me a daily</p> <p>24 per diem.</p> <p>25 Or if I had to stay there for</p>
<p style="text-align: right;">Page 19</p> <p>1 Mario H. Capogrosso</p> <p>2 So at that point I really -- I</p> <p>3 started not to trust this woman anymore. I</p> <p>4 said, that is enough. She was sent in -- I</p> <p>5 normally, with my engineering firm, if they</p> <p>6 sent me someplace, they always paid my</p> <p>7 expenses.</p> <p>8 She said she was going to pay</p> <p>9 expenses, and then she decided not to pay</p> <p>10 expenses. And she sending me to all</p> <p>11 different courts, all over Long Island and</p> <p>12 Upstate New York. I said, I can't afford</p> <p>13 this. I can't afford it. Gas, tolls.</p> <p>14 So at that point I said, you</p> <p>15 know, you are not going to truthful with me,</p> <p>16 I don't feel comfortable working with you. I</p> <p>17 decided to end it.</p> <p>18 My clients who I was representing</p> <p>19 liked me, liked my representation, so I said,</p> <p>20 I will do this on my own, which is what I</p> <p>21 did.</p> <p>22 Q. So what was your salary with</p> <p>23 Ms. Kalker?</p> <p>24 A. That beginning salary, what I</p> <p>25 recall was \$40,000 a year, back in 2005.</p>	<p style="text-align: right;">Page 21</p> <p>1 Mario H. Capogrosso</p> <p>2 several months, they gave me per diem to pay</p> <p>3 for my living expenses. They treated their</p> <p>4 employees very well.</p> <p>5 But I made the decision to try to</p> <p>6 be a lawyer, because I went to law school at</p> <p>7 night. I didn't want to do any more</p> <p>8 traveling. I made that decision, and I</p> <p>9 wanted to stay in one place for a while.</p> <p>10 And my company wanted me to</p> <p>11 travel, and I didn't want to travel anymore,</p> <p>12 and so I said, let me give it -- I went to</p> <p>13 law school and I passed two exams, so let me</p> <p>14 try it. And I did, and my clients liked me.</p> <p>15 Q. And so you started your practice</p> <p>16 before TVB, your solo practice before the TVB</p> <p>17 at -- in summer of 2005, correct?</p> <p>18 A. June, early July, late June,</p> <p>19 early July 2005.</p> <p>20 Q. And can you sort of describe your</p> <p>21 practice to me.</p> <p>22 A. I represented motorists at</p> <p>23 hearings, traffic violation hearings. The</p> <p>24 clients loved me. Police officers didn't</p> <p>25 like me because I really grilled them, did</p>

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1 Mario H. Capogrosso
 2 grill them. I went after them.
 3 My clients loved me; they did.
 4 I submitted several reviews to
 5 you, many reviews. My clients really liked
 6 me as an attorney, they did. Police officers
 7 didn't. I really went after a police officer
 8 in the court, I did. It was my obligation.
 9 I felt an obligation to my clients to
 10 zealously defend.
 11 I remember taking that oath when
 12 I got admitted into the bar, you have an
 13 obligation to zealously defend, and that is
 14 what I did.
 15 Q. Was your practice primarily in
 16 the South Brooklyn TVB?
 17 A. Yes, pretty much. Occasionally I
 18 would get -- what happens is you get a ticket
 19 that sometimes go to other courts, another
 20 tribunal, so if you took it -- you take it,
 21 you went. Sometimes you get one Upstate,
 22 Upstate New York or Long Island. And you
 23 took the case, you had to go, and I went.
 24 Predominately it was in Brooklyn South.
 25 Q. If you have to put a percentage

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1 Mario H. Capogrosso
 2 on that, what percent of your work would you
 3 say was in the South Brooklyn TVB?
 4 A. Ninety percent. 90 percent.
 5 Q. Did you practice before any other
 6 administrative tribunals other than the TVB?
 7 A. Let me think. Other
 8 administrative.
 9 I went to criminal court, 346
 10 Broadway, which is down in New York City. I
 11 went to criminal court often. Occasionally.
 12 Sometimes they had a pink ticket,
 13 which is not a yellow ticket, and I would
 14 have to go down to criminal court. But that
 15 wasn't a --
 16 Q. Can you explain that to me?
 17 A. Well, sometimes some of these
 18 motorists would get, as opposed to a yellow
 19 ticket, they would get a pink ticket, which
 20 was covered by the penal code of New York
 21 State, and it is a little more graver
 22 implications.
 23 Normally everything got pled out.
 24 But I would go down to certain criminal
 25 courts. That's where police officers gave

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1 Mario H. Capogrosso
 2 violations, summons that had criminal
 3 implications. They were held at a different
 4 court, and I went there. But for the most
 5 part, that was it.
 6 Q. Did you do any other criminal
 7 work outside of the pink tickets?
 8 A. I had one where a guy was accused
 9 of stealing some groceries from a grocery
 10 store, and another one where a man got
 11 involved in an altercation with his --
 12 another man concerning parking his truck in
 13 front of his business.
 14 And I went down to Red Hook
 15 Criminal Court in Red Hook. I went out to
 16 immigration court once, and I represented a
 17 client there who never showed up for his
 18 hearing, and the case got thrown out. That
 19 is what I recall. That is what I recall.
 20 Q. And so no other administrative
 21 tribunal other than TVB?
 22 A. No. That would be it.
 23 Q. Did you ever practice before the
 24 OATH, the Office of Administrative Trials and
 25 Hearings for New York City?

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1 Mario H. Capogrosso
 2 A. No. I would have remembered
 3 that.
 4 Q. So you said that you had
 5 litigated a couple of criminal cases in
 6 New York State Court and one immigration
 7 case.
 8 Have you litigated any other
 9 cases in State court, criminal or civil?
 10 A. Well, after that point in time I
 11 worked for an attorney down in Brooklyn, so
 12 yes, there were other cases I have litigated.
 13 I worked for an attorney in
 14 Connecticut after I was removed from the
 15 Brooklyn TVB system, the New York TVB system.
 16 I worked for an attorney in Connecticut.
 17 I worked for an attorney -- as an
 18 independent -- well, and I worked for an
 19 attorney in Brooklyn.
 20 Q. So let's step back to the TVB for
 21 a second.
 22 Did you like practicing at TVB?
 23 A. I loved it. I loved it. They
 24 were short: Got there at 8:30 the day was
 25 over by 4:00. I loved it. I loved my

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1 Mario H. Capogrosso
 2 clients. My clients loved me. I liked it.
 3 It wasn't a whole bunch of preparation for
 4 it.
 5 It was the same defenses, for the
 6 most part. I liked being the courtroom. I
 7 liked to speak. My clients liked me.
 8 I was right down by the water. I
 9 loved going to the beach. Afterwards, I
 10 would go to beach. I loved it. It was a
 11 short day. It was nice. I loved it.
 12 Q. You said a short day.
 13 What were your average hours?
 14 A. 8:30. Court opened at 8:30. Got
 15 there right at 8:30 or 8:15. The doors
 16 opened right at 8:30, and the day ended
 17 Monday, Tuesday, Wednesday, Friday by 4:00.
 18 All cases are wrapped up by 3:30. On
 19 Thursday it went later, until 6:00. That was
 20 a late day.
 21 All you had to make sure was that
 22 your calendar was kept properly. Calendar
 23 was very important. You had to make sure
 24 your calendar was right, and you had to make
 25 sure you stayed in contact with these

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1 Mario H. Capogrosso
 2 motorists.
 3 They wanted to know what
 4 happened. I would make phone calls all the
 5 time, whether I won, I lost. I always told
 6 them to show up. I always wanted my client
 7 with me in a courtroom, always. I wanted
 8 them to hear what I did and what I said. I
 9 wanted them to know, if they gave me money, I
 10 was defending them. I wanted them to know
 11 that.
 12 A lot of other motorists -- other
 13 attorneys didn't like that. They didn't want
 14 their motorists showing up. I wanted my
 15 guys --
 16 Q. So did you ever --
 17 A. Go ahead.
 18 Q. Did you ever consider taking
 19 another job while you were at the TVB?
 20 A. No. I liked it. No, I really
 21 liked it. I enjoyed. I enjoyed it.
 22 I know there were other aspects
 23 of law, but I know it would have taken a
 24 commitment. I enjoyed it.
 25 Q. And if you had to estimate, how

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1 Mario H. Capogrosso
 2 long were you planning on continuing to
 3 practice at the TVB? Were you thinking of
 4 retiring at some point?
 5 A. I am a working man. I am going
 6 to die -- I am going to work until I die. I
 7 am a working man. I was brought up that way.
 8 I told you after I left Columbia,
 9 my father put me as a laborer, and I worked
 10 as a laborer. I am a working man. I am
 11 going to work until I can't work anymore. I
 12 don't believe in retirement. I am going to
 13 work until I can't work any longer. That is
 14 my opinion. That is how I --
 15 Q. All right. So after you were
 16 expelled from practicing before the TVB in
 17 2015, what did do you for work?
 18 A. Afterwards, very difficult to
 19 find work. I am not a youngster. Very
 20 difficult finding work. I sent out resumes.
 21 First of all, first of all, the
 22 most important thing I did is I called every
 23 one of my clients. I had 850 clients. I
 24 called every one of them. I said, give me
 25 your address, and I have to return money.

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1 Mario H. Capogrosso
 2 Because everybody who paid me a fee, and I
 3 didn't complete that case, their money got
 4 returned. Everyone got their money back.
 5 Everyone. Give me an address, and for the
 6 most part, for a long time, long time, I was
 7 writing checks to return money.
 8 I am not going to be called a
 9 thief. I am no thief. I returned money. I
 10 did that for a long time. And I don't think
 11 you have one complaint from a motorist I
 12 didn't return a fee to, not one. I returned
 13 every fee that I did not earn because I
 14 didn't complete the case.
 15 Then when that got completed --
 16 that took some time -- motorists were calling
 17 me daily, daily: Where are you? Why aren't
 18 you showing up? It was a real headache.
 19 They were calling me daily, all hours of the
 20 night, where is my money? How come you
 21 didn't return my money? I did return your
 22 money.
 23 Well, how come I didn't get it
 24 yet? Give it a couple of days in the mail.
 25 I returned every dollar. It took

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1 Mario H. Capogrosso
2 a long time to tell my clients, I am not
3 practicing this type of law right now. A lot
4 were asking, why not? Well, that was it.
5 So I did that for a while. That
6 took a long time, a good portion of time to
7 clear all the cases up.
8 And then I put out resumes, and I
9 got an offer in Connecticut. I worked from
10 Connecticut. And then I got the offer in
11 Brooklyn; I worked in Brooklyn.
12 Q. So tell me about the position in
13 Connecticut. What organization was that
14 with?
15 A. It was for a law firm in
16 Connecticut.
17 Q. And what was the name of that law
18 firm?
19 A. Law Firm of Frank Peluso,
20 P-E-L-U-S-O.
21 Q. P-E-L-U-S-O.
22 And when did you start working
23 there?
24 A. You don't want me referring to my
25 resume. Let me think. 2015, this happened.

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1 Mario H. Capogrosso
2 I don't know. Two thousand --
3 Q. You can look at your resume if
4 you want; that is fine. Just please provide
5 us with a copy of it after.
6 A. 2016, I think. I think it was
7 2016, I believe.
8 Q. Do you know what month in 2016?
9 A. No. I was working as an
10 independent contractor. He paid me on a
11 1099. So everything was always paid on 1099.
12 So was I officially with the
13 firm. I reported to the firm every day. I
14 reported to him every day.
15 Was I under -- was I salaried
16 employed? No, I was being paid on 1099.
17 Q. Do you remember sort of what time
18 of the year it was that you started working
19 there?
20 A. No.
21 Q. Spring, summer, fall?
22 A. Had to be in -- let me think. I
23 think it was May. May 2016, I think.
24 Q. Okay. And what did your work for
25 the Peluso firm consist of?

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1 Mario H. Capogrosso
2 A. We had personal injury cases. I
3 had one in New York, one in Connecticut,
4 several in New York, several in Connecticut.
5 I am licensed in both states. He liked that.
6 I represented some criminal
7 defendants in criminal matters. I think we
8 had a couple of divorce cases. He was a
9 general practitioner.
10 Q. And how much were you paid for
11 that work?
12 A. I don't recall the exact salary.
13 I don't. I know he paid me on a weekly
14 basis. Might have been -- I don't know. Let
15 me think. 1100 to 1200. Thousand or 1100 a
16 week, something like that. 200 a day, 250 a
17 day, something like that. He paid me on a
18 weekly basis, you know, 200 to \$250 a day,
19 from what I recall.
20 Q. And so why did you stop working
21 for the Peluso firm?
22 A. He lost his malpractice
23 insurance. It was an issue. I am not going
24 to go into the details of it, but he lost his
25 malpractice insurance.

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1 Mario H. Capogrosso
2 I said Frank, I can't work for a
3 person that doesn't have malpractice, I
4 can't. I said, do you want to pay for my
5 malpractice insurance? I didn't feel
6 comfortable with that, because then it is not
7 under my license. I am really practicing
8 under my license.
9 I said, Frank, you gotta get
10 malpractice. You lost it. I said, I don't
11 feel comfort. I have to leave you. If you
12 don't have malpractice -- he had a problem or
13 issue; I don't want to get into it.
14 But he couldn't get malpractice
15 insurance. I said, I can't take a chance,
16 Frank.
17 Q. Can you give me a quick summary
18 of what the issue was?
19 A. I don't recall the -- you know,
20 you have to ask -- I don't know the issue. I
21 know one day he told me he had no
22 malpractice.
23 Frank, I can't work. I am sorry.
24 I don't know what his issue was.
25 I didn't get into it. I know he had

<p style="text-align: right;">Page 34</p> <p>1 Mario H. Capogrosso</p> <p>2 litigation going on, and the insurance</p> <p>3 company decided to drop him, and he couldn't</p> <p>4 get it anyplace else.</p> <p>5 Q. Did the issue have anything to do</p> <p>6 with any of the cases you were working on?</p> <p>7 A. No, no. Before I got there, he</p> <p>8 had an issue on a matter.</p> <p>9 No, not me. Not me. No, I</p> <p>10 wasn't involved in the malpractice suit.</p> <p>11 Didn't mention my name at any point. Didn't</p> <p>12 mention me. Mentioned him. And then he</p> <p>13 showed up.</p> <p>14 Q. Um --</p> <p>15 A. -- go ahead.</p> <p>16 Q. I am sorry. I didn't mean to cut</p> <p>17 you off.</p> <p>18 A. Well, before I took the job, I</p> <p>19 didn't know he had this issue. I had no</p> <p>20 idea. No idea. So I took the job.</p> <p>21 Then I am into the job, and he</p> <p>22 tells me, well, they dropped me. Well, what</p> <p>23 do you want me to do, Frank? Had nothing to</p> <p>24 do with what I did. I was never named in any</p> <p>25 grievance or anything like that. Not.</p>	<p style="text-align: right;">Page 36</p> <p>1 Mario H. Capogrosso</p> <p>2 completed.</p> <p>3 And what is an estimate of how</p> <p>4 many that you worked on at one point or</p> <p>5 another?</p> <p>6 A. He had a caseload. He had at</p> <p>7 least 75 cases in the office that I touched,</p> <p>8 that I had to get some type -- you know, that</p> <p>9 I was working, that he was throwing at me on</p> <p>10 different levels.</p> <p>11 Q. The Peluso Firm, did you do any</p> <p>12 legal work other than personal injury and</p> <p>13 criminal defense?</p> <p>14 A. We had a land dispute, a land</p> <p>15 dispute that I helped resolve. We settled</p> <p>16 that between parties, between two parties.</p> <p>17 Somebody putting up a fence, that I remember.</p> <p>18 What else? Divorce case that I</p> <p>19 helped work on. And that was it.</p> <p>20 Q. Okay. And when did you stop</p> <p>21 working for the Peluso Firm?</p> <p>22 A. When I found out that he lost the</p> <p>23 malpractice.</p> <p>24 Q. And when was that?</p> <p>25 A. That would have been -- let me</p>
<p style="text-align: right;">Page 35</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. And if you had to estimate, how</p> <p>3 many personal injury cases did you do while</p> <p>4 you were there?</p> <p>5 A. Oh, I don't know. Personal</p> <p>6 injury, maybe -- oh, I don't know. The cases</p> <p>7 were all -- he had a lot of them. The ones I</p> <p>8 actually bring to complete -- I worked on a</p> <p>9 lot of them. Do I recall?</p> <p>10 You know, he had a lot -- he had</p> <p>11 cases. But the ones I actually brought to</p> <p>12 completion while I was there, maybe three or</p> <p>13 four.</p> <p>14 Q. And cases you worked on, in</p> <p>15 total? Just estimate.</p> <p>16 A. At least 50. At least 50 cases</p> <p>17 that I had. But I only brought to completion</p> <p>18 maybe three or four, in terms of --</p> <p>19 Q. How many criminal cases would you</p> <p>20 say you worked on with the Peluso firm?</p> <p>21 A. Oh, he had cases, five or six</p> <p>22 that I completed. I said they were ongoing.</p> <p>23 They don't get completed overnight. They</p> <p>24 were ongoing.</p> <p>25 Q. Yeah. Five or six that you</p>	<p style="text-align: right;">Page 37</p> <p>1 Mario H. Capogrosso</p> <p>2 see. Probably in '17. The beginning of</p> <p>3 2017. Beginning of 2017. Yeah, 2017.</p> <p>4 Q. Okay. And what did you do after</p> <p>5 you stopped working with the Peluso Firm?</p> <p>6 A. Well, then I was looking for</p> <p>7 work. It is not easy, finding a job at my</p> <p>8 age. I am 59 years old, not easy. I started</p> <p>9 looking for work.</p> <p>10 So I was taking whatever I could.</p> <p>11 I was doing per diem work. I was sent out</p> <p>12 to -- they have this thing called Attorneys</p> <p>13 on Demand, AOD. I put my resume out there.</p> <p>14 So I would go -- for a while I was doing</p> <p>15 that, Attorneys on Demand. If they had a</p> <p>16 case, I would go out to the case and do an</p> <p>17 appearance and pay me for the appearance. I</p> <p>18 did that for a while.</p> <p>19 Q. And about how much were you paid</p> <p>20 by AOD?</p> <p>21 A. Oh, geez, it was substance level.</p> <p>22 You had to bargain with them, too. You know,</p> <p>23 there was a lot of attorneys. You know,</p> <p>24 everybody -- if you were an attorney that</p> <p>25 regularly went there, they gave it to them</p>

10 (Pages 34 - 37)

<p style="text-align: right;">Page 38</p> <p>1 Mario H. Capogrosso</p> <p>2 first. It was nothing, 50, \$75 maybe.</p> <p>3 Q. For an appearance?</p> <p>4 A. Yeah, hundred dollars an</p> <p>5 appearance, maybe. Hundred dollars an</p> <p>6 appearance was max.</p> <p>7 But you took what you could get.</p> <p>8 I gotta eat. You took what you could get.</p> <p>9 Q. And other than for AOD, did you</p> <p>10 work at any other organizations at this time</p> <p>11 before you joined the Brooklyn firm?</p> <p>12 A. I did some per diem work for a</p> <p>13 couple of lawyers who needed some help on</p> <p>14 certain things. I forgot their names. I</p> <p>15 really did forget their names.</p> <p>16 It wasn't a long time that I</p> <p>17 worked for them. It was per diem. They --</p> <p>18 work who needed some extra help. I forget</p> <p>19 their names, I do.</p> <p>20 And then I got the opportunity to</p> <p>21 work with -- in Brooklyn in 2018, and I took</p> <p>22 that position.</p> <p>23 Q. Did you -- you know, before we</p> <p>24 get to the Brooklyn position, did you do any</p> <p>25 cases yourself? Did you have any of your own</p>	<p style="text-align: right;">Page 40</p> <p>1 Mario H. Capogrosso</p> <p>2 A. I went on Craigslist he had</p> <p>3 posted a job offering. I sent out my resume.</p> <p>4 He was a nice guy, Yuan. I got</p> <p>5 nothing bad to say about him. He is a really</p> <p>6 nice guy. I sent out my resume. He was a</p> <p>7 nice guy, Yuan, and he gave me a job. And I</p> <p>8 am thankful for it, very thankful.</p> <p>9 Q. And when did you start working</p> <p>10 with the Jiang firm?</p> <p>11 A. Once again, he paid me on a 1099.</p> <p>12 But I was with the firm. I was. He paid me</p> <p>13 on a 1099. It was his firm. I started in</p> <p>14 March. I know the exact date, actually. I</p> <p>15 think it was March 26, 2018.</p> <p>16 Q. And what did your duties consist</p> <p>17 of at the Jiang firm?</p> <p>18 A. Well, one of his lead attorneys.</p> <p>19 It was me, him, in the office. There was</p> <p>20 another attorney who left right away.</p> <p>21 Another attorney came in. And then there was</p> <p>22 about three paralegals. And his wife was</p> <p>23 there. She ran the front desk. But I was</p> <p>24 one of the attorneys.</p> <p>25 Q. So what did you do for them?</p>
<p style="text-align: right;">Page 39</p> <p>1 Mario H. Capogrosso</p> <p>2 clients?</p> <p>3 A. No, no. All my clients got</p> <p>4 returned to me.</p> <p>5 My reputation in Brooklyn got</p> <p>6 ruined. My reputation in Brooklyn got ruined</p> <p>7 because of this.</p> <p>8 And I didn't want to go out on my</p> <p>9 own yet until this got resolved. I wanted</p> <p>10 this put to an end. I wanted my reputation</p> <p>11 reestablished. I want to tell my clients,</p> <p>12 yeah, I won this case, and I am back to</p> <p>13 practicing law, and I am a good lawyer. And</p> <p>14 I wanted this case resolved before I went</p> <p>15 back on my own on a full-time basis, because</p> <p>16 my reputation got ruined, and I wanted this</p> <p>17 resolved.</p> <p>18 Q. So you said you took a job in</p> <p>19 2018 with a firm in Brooklyn; is that</p> <p>20 correct?</p> <p>21 A. The law firm of Yuan Jiang.</p> <p>22 Q. And can you spell Yuan Jiang?</p> <p>23 A. Yuan, Y-U-A-N, Jiang, J-I-A-N-G.</p> <p>24 Q. And how did you get connected to</p> <p>25 the job with the Yuan Jiang firm?</p>	<p style="text-align: right;">Page 41</p> <p>1 Mario H. Capogrosso</p> <p>2 A. Drafted complaints, personal</p> <p>3 injuries cases, drafted complaints, filed</p> <p>4 complaints, answered complaints. Had</p> <p>5 criminal cases we did that. What else?</p> <p>6 Personal injury and criminal complaint work.</p> <p>7 He had immigration work, which I</p> <p>8 did a little bit of, but then he brought</p> <p>9 somebody in who had a lot of experience in</p> <p>10 immigration. I didn't have the experience.</p> <p>11 I had one experience with immigration. But</p> <p>12 he brought somebody in who was pretty good</p> <p>13 with immigration. And that was it.</p> <p>14 Q. And if you had to estimate, you</p> <p>15 know, how many personal injury cases and how</p> <p>16 many criminal cases -- let ask one at a time.</p> <p>17 How many personal injury cases</p> <p>18 did you work on for the Jiang firm?</p> <p>19 A. Like I said, probably touched --</p> <p>20 you know, he had a lot of cases coming in.</p> <p>21 He had a lot; 45, 40 to 45. You know, I</p> <p>22 would say about 40 cases. And criminal work,</p> <p>23 another 15.</p> <p>24 Q. And anything other than criminal</p> <p>25 and personal injury?</p>

<p style="text-align: right;">Page 42</p> <p>1 Mario H. Capogrosso</p> <p>2 A. We had a matrimonial case. I</p> <p>3 enjoyed that one. And I thought the lady was</p> <p>4 being treated very badly. It was a lady that</p> <p>5 had been treated very, very badly. I wanted</p> <p>6 a nice settlement for her, and I was very</p> <p>7 happy with that case. We had a -- I had a</p> <p>8 divorce case -- we actually had a couple of</p> <p>9 divorce cases. The one I actually settled,</p> <p>10 and I got a nice settlement on, I was very</p> <p>11 happy with.</p> <p>12 Q. And so what was your compensation</p> <p>13 while you were at the Jiang firm?</p> <p>14 A. It was 85,000 a year. 85,000.</p> <p>15 But I was paid on a weekly basis.</p> <p>16 Q. Did that include benefits?</p> <p>17 A. No benefits, no.</p> <p>18 Q. No insurance?</p> <p>19 A. No. He covered my malpractice</p> <p>20 insurance. He covered the malpractice, and I</p> <p>21 was -- it was great. But other than that,</p> <p>22 nothing, no.</p> <p>23 Q. And so how long were you at the</p> <p>24 Jiang firm for?</p> <p>25 A. Until COVID 19 hit. The last day</p>	<p style="text-align: right;">Page 44</p> <p>1 Mario H. Capogrosso</p> <p>2 situation where I am meeting clients and</p> <p>3 interacting with clients. I am fearful. I</p> <p>4 am 59 years old, I am and I have had two</p> <p>5 relatives who have died of this disease</p> <p>6 already.</p> <p>7 Q. I am very sorry.</p> <p>8 A. Thank you. I am sorry. Thank</p> <p>9 you.</p> <p>10 I am fearful of interacting with</p> <p>11 clients on a daily basis, I am. So until I</p> <p>12 get vaccinated --</p> <p>13 And I think Jiang has moved on.</p> <p>14 I did drive by the office, and I saw it was</p> <p>15 open. So at some level, he is open.</p> <p>16 But I don't know what his</p> <p>17 caseload is like, and I don't know if he is</p> <p>18 generating any revenue.</p> <p>19 Q. And you haven't reached out to</p> <p>20 him about that?</p> <p>21 A. No. I do wish him the best. He</p> <p>22 is nice guy, Yuan. He is a nice guy and nice</p> <p>23 wife. And I do wish him the best, yes.</p> <p>24 Q. So what you are doing for work</p> <p>25 currently?</p>
<p style="text-align: right;">Page 43</p> <p>1 Mario H. Capogrosso</p> <p>2 he closed the firm down, in March, what was</p> <p>3 it 2020. March 17th, put a notice on the</p> <p>4 front door said, we are closed right now. He</p> <p>5 had me working from home like a week or two,</p> <p>6 and said, this is not working, and put a</p> <p>7 notice on the door and said we are closed.</p> <p>8 It was exactly March 17, 2020.</p> <p>9 Q. So March 17th was your last day</p> <p>10 working for the Jiang firm?</p> <p>11 A. Yes.</p> <p>12 Q. And it was an amicable</p> <p>13 separation?</p> <p>14 A. Yeah. You know, he closed the</p> <p>15 door down. Thank you. Thank you very much,</p> <p>16 you know.</p> <p>17 Q. At the point when -- at the point</p> <p>18 where the COVID crisis is over, do you expect</p> <p>19 that you will go back to work for the Jiang</p> <p>20 firm?</p> <p>21 A. I think he has moved on. I</p> <p>22 haven't really spoken to him. I think he is</p> <p>23 open now, and he hasn't reached out to me.</p> <p>24 So I am sure he has moved on.</p> <p>25 I don't want to go back into a</p>	<p style="text-align: right;">Page 45</p> <p>1 Mario H. Capogrosso</p> <p>2 A. Nothing. Nothing. Nothing.</p> <p>3 Nothing.</p> <p>4 Q. You don't have any clients of</p> <p>5 your own?</p> <p>6 A. No, nope. I told you, I need</p> <p>7 this resolved. I need this resolved. One</p> <p>8 way or the other, I need this resolved.</p> <p>9 Either my name gets cleared as an attorney,</p> <p>10 my name gets cleared and my reputation gets</p> <p>11 reestablished as an attorney, or I move on in</p> <p>12 another direction, because I am -- or I move</p> <p>13 on. That is my feeling on this.</p> <p>14 Q. You said move on in another</p> <p>15 direction. What would that be?</p> <p>16 A. I don't know. I don't know. I</p> <p>17 will go out and do something to make a</p> <p>18 living.</p> <p>19 I do get made pandemic</p> <p>20 assistance. I do. I am not going to lie</p> <p>21 about that; I do get pandemic assistance. It</p> <p>22 is going to run out very shortly; it will.</p> <p>23 At that point, I don't know what I am going</p> <p>24 to do. I will have to figure it out.</p> <p>25 Q. When you say pandemic assistance,</p>

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1 Mario H. Capogrosso
 2 you mean unemployment?
 3 A. Yes.
 4 Q. And this is under the -- what is
 5 it, the Cares Act that they passed?
 6 A. Yeah. I am not sure under what
 7 act it was. But I do get PUA, pandemic
 8 unemployment assistance. But it is going to
 9 be running out. You get 39 weeks of it.
 10 Q. So you haven't done any legal or
 11 other work since leaving the Jiang firm in
 12 March; is that correct?
 13 A. Other than the work on my case,
 14 and other than work on this case, no.
 15 Wait, no. I had one client. He
 16 is a friend, not really a client. He was a
 17 friend that I talked to about a case.
 18 Other than that, no.
 19 Q. All right. Was that -- did he
 20 pay you for that legal advice?
 21 A. No. Nope. It was friend. A
 22 friend. He was going -- he wanted to try to
 23 establish visitation rights with his child.
 24 First of all, I don't think it is
 25 appropriate to represent friends or family.

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1 Mario H. Capogrosso
 2 You get too emotionally involved. Especially
 3 me, I get too emotionally involved.
 4 He has another attorney now, and
 5 I wish him the best. I hope he gets
 6 visitation, because he is a nice guy. And
 7 that is it.
 8 Q. And do you have any other sources
 9 of income at this time?
 10 A. No. I day trade a little bit,
 11 making some money day trading. That is very
 12 chancy. I have to resort to that, but I did
 13 make some money day trading.
 14 Q. About how much money did you make
 15 day trading?
 16 A. Oh, I don't know. How much money
 17 do you lose day trading, is more like it.
 18 There is no guaranteed money day trading.
 19 Q. Are you good at it? Do you win
 20 more than you lose?
 21 A. There is no way to generate an
 22 income. I am okay, but I don't generate any
 23 significant -- first of all, you need money
 24 to day trade.
 25 I am okay. I am okay. I am not

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1 Mario H. Capogrosso
 2 great, but I to have resort to that right
 3 now, but --
 4 Q. Would you say you make a couple
 5 of thousand a year, more or less?
 6 A. I don't know. I don't know. I
 7 really don't know.
 8 It is not a thing I do often. It
 9 is not something I can rely on, let me say
 10 that. It is not something I can rely on.
 11 I prefer being an engineer or
 12 being a lawyer. You know, I enjoyed what I
 13 was doing down in Brooklyn. I enjoyed being
 14 an engineer.
 15 I want this resolved. And once
 16 this is resolved, I will make the decision
 17 what direction to go in.
 18 Q. And you had mentioned that if you
 19 don't prevail in the case, you would be
 20 looking to do something else. Do you mean
 21 something nonlegal, or do you have an idea in
 22 mind?
 23 A. I don't know. I don't like the
 24 way the legal professional acts. I don't --
 25 I worked for an engineer a long time in my

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1 Mario H. Capogrosso
 2 life, nuclear -- at a nuclear -- if I lied
 3 once, I was off the job. Once. Good-bye.
 4 If I said inappropriate -- if I
 5 didn't know anything, I kept my mouth shut.
 6 But I would never say -- I would never lie.
 7 I mean, it is not accepted.
 8 I have dealt with more lawyers
 9 and judges who have lied, who have not
 10 investigated facts. Terry Kalker, who I
 11 started out with, who told me, you will have
 12 medical insurance in three months, which was
 13 a lie, which is why I left her.
 14 Yuan didn't do it. Yuan was a
 15 straight guy.
 16 Frank Peluso, who lost his
 17 malpractice insurance.
 18 I dealt with more lawyers who
 19 have lied that I can -- it just disturbed the
 20 heck out of me. It does. It does disturb
 21 it. I am a very truthful guy.
 22 In engineering, you cannot be
 23 non-truthful. So I do want to stay in this
 24 professional -- I don't know. I don't know
 25 at this point.

<p style="text-align: right;">Page 50</p> <p>1 Mario H. Capogrosso</p> <p>2 I want to clear my name; that is</p> <p>3 what I do know.</p> <p>4 Q. So that is what this case is</p> <p>5 about for you, clearing your name?</p> <p>6 A. Clearing my name and getting the</p> <p>7 money that I lost that I could have made.</p> <p>8 I am a working man. Like I told</p> <p>9 you, I am a working man.</p> <p>10 I had to return a lot of fees, a</p> <p>11 lot of fees, and I was put out of work</p> <p>12 wrongly. Wrongly I was put out of work.</p> <p>13 Q. So can you summarize for me what</p> <p>14 this case is about?</p> <p>15 A. Vindication of my name, my</p> <p>16 reputation as an attorney. To getting the</p> <p>17 money that I lost because I couldn't work as</p> <p>18 an attorney. The money I had to return.</p> <p>19 And for a Brooklyn jury to make a</p> <p>20 decision, whether there are judges and</p> <p>21 lawyers who have lied on my behalf to get rid</p> <p>22 of me, because Judge Gelbstein needed a piece</p> <p>23 of the action. Because he has lunch with</p> <p>24 ticket brokers on a weekly basis. He has</p> <p>25 other attorneys covering for him on cases</p>	<p style="text-align: right;">Page 52</p> <p>1 Mario H. Capogrosso</p> <p>2 believe a Brooklyn jury has to hear it. And</p> <p>3 people should be punished for their actions.</p> <p>4 And how I was treated, they should be</p> <p>5 punished. That is what this case is about.</p> <p>6 Q. So I mean, so some of this is</p> <p>7 items that I intend to get to a little later</p> <p>8 in the deposition.</p> <p>9 You mentioned a couple of</p> <p>10 incidents just now regarding Judge Gelbstein</p> <p>11 and some allegations that you feel are valid.</p> <p>12 You said something about a piece of the</p> <p>13 action. Can you explain that to me?</p> <p>14 A. First meeting with Judge</p> <p>15 Gelbstein, first meeting when I arrived, we</p> <p>16 had a meeting. He arrived pretty much a</p> <p>17 couple weeks or months after I arrived. He</p> <p>18 has a meeting with all the lawyers.</p> <p>19 And one of the first things I</p> <p>20 remember -- I have a very good memory. I</p> <p>21 have a very good memory -- how do I get a</p> <p>22 piece of the action? How do I get a piece of</p> <p>23 action? This is judge asking for a piece of</p> <p>24 the action.</p> <p>25 Q. So can you explain to me sort of</p>
<p style="text-align: right;">Page 51</p> <p>1 Mario H. Capogrosso</p> <p>2 down there, and he wanted me out.</p> <p>3 And judges like that shouldn't be</p> <p>4 practicing, and he shouldn't be covered for</p> <p>5 by his superiors. And complaints should not</p> <p>6 be made against a hard working attorney like</p> <p>7 myself, which is what I was.</p> <p>8 There was not one grievance from</p> <p>9 a motorist or a client against -- what he did</p> <p>10 for them, not one grievance.</p> <p>11 And my reputation has to be</p> <p>12 besmirched, and they wanted me out of there</p> <p>13 because I told the truth and reported what I</p> <p>14 saw and heard, and they wanted me out of</p> <p>15 there.</p> <p>16 And they set me up. Not only the</p> <p>17 incident with Yaakov Brody, which I think I</p> <p>18 was set up on, but with these two who --</p> <p>19 David Smart.</p> <p>20 And then repeated it -- repeated</p> <p>21 pleas for help, not only with your office,</p> <p>22 where my complaint was lost and was never</p> <p>23 responded to in my letter of March 20, 2015;</p> <p>24 it was lost.</p> <p>25 And I believe I was set up, and I</p>	<p style="text-align: right;">Page 53</p> <p>1 Mario H. Capogrosso</p> <p>2 the context in which that came up, like what</p> <p>3 was said before that?</p> <p>4 A. I don't know if he is saying it</p> <p>5 in what respect. But if you say to another</p> <p>6 attorney, how do I get a piece of the action,</p> <p>7 and you are a judge, and you think you are</p> <p>8 saying this facetiously or being funny, I</p> <p>9 don't accept it that way.</p> <p>10 I don't -- I am a young attorney</p> <p>11 down there. I am just kind of observing. It</p> <p>12 hit me the wrong way, for a judge to say, how</p> <p>13 do I get a piece of the action?</p> <p>14 He had an attorney's meeting with</p> <p>15 all the attorneys down there, all the regular</p> <p>16 attorneys he calls it. He wanted a meeting</p> <p>17 with everybody when I first arrived.</p> <p>18 Q. And when was this, what year?</p> <p>19 A. Well, I started working down in</p> <p>20 June of -- like I said, June of 2005. So it</p> <p>21 was right at that point, after that point, a</p> <p>22 couple of months afterwards, he arrived;</p> <p>23 July, August.</p> <p>24 Q. July, August 2005?</p> <p>25 A. Yes. He had the first meeting</p>

<p style="text-align: right;">Page 54</p> <p>1 Mario H. Capogrosso</p> <p>2 with all the regular attorneys down there,</p> <p>3 and I was one of them at that point.</p> <p>4 Q. And can you tell me what happened</p> <p>5 in the meeting?</p> <p>6 A. He was introducing himself as</p> <p>7 Judge Gelbstein, and he makes this remark.</p> <p>8 And I didn't know how this game</p> <p>9 was played down there. And eventually I</p> <p>10 found out what is going on.</p> <p>11 And looking around, I said, this</p> <p>12 judge might be getting a piece of the action.</p> <p>13 Was I upset about it?</p> <p>14 Absolutely.</p> <p>15 Q. So going back to the meeting, he</p> <p>16 just said out of nowhere -- was anything said</p> <p>17 before he said that? Did someone ask him a</p> <p>18 question? Or was he talking about something</p> <p>19 else?</p> <p>20 A. No, no. No, just makes the</p> <p>21 remark, how do I get a piece of the action?</p> <p>22 Q. Just out of nowhere, how do I get</p> <p>23 a piece of the action?</p> <p>24 A. Yeah.</p> <p>25 Then I see a meeting with ticket</p>	<p style="text-align: right;">Page 56</p> <p>1 Mario H. Capogrosso</p> <p>2 a lawyer.</p> <p>3 You say that, and you expect me</p> <p>4 to not accept it as truth? I don't know how</p> <p>5 he meant or said it. I know he said it. I</p> <p>6 am testifying to what I heard. I am not</p> <p>7 getting paid --</p> <p>8 Q. Did he say --</p> <p>9 A. I am not getting paid to do the</p> <p>10 Attorney General -- I shouldn't be looking</p> <p>11 into this. This is not my responsibility to</p> <p>12 be looking into, if a judge says how do I get</p> <p>13 a piece of the action. I don't think it is</p> <p>14 my responsibility. I reported what I heard.</p> <p>15 Q. Was there any other context</p> <p>16 about, you know, that indicated what he might</p> <p>17 have meant, that you recall?</p> <p>18 A. No. He said, I hope you guys all</p> <p>19 make a lot of money. I know that, something</p> <p>20 to that effect, that -- you know, I hope all</p> <p>21 you attorneys make money.</p> <p>22 He was introducing himself to the</p> <p>23 attorneys. And he ended it with how do I get</p> <p>24 a piece of the action?</p> <p>25 Q. All right. So the second item</p>
<p style="text-align: right;">Page 55</p> <p>1 Mario H. Capogrosso</p> <p>2 brokers on a weekly basis.</p> <p>3 Ticket brokers is a guy who comes</p> <p>4 down there; that is what happens. They give</p> <p>5 summons to lawyers, and these ticket brokers</p> <p>6 are in his office every week.</p> <p>7 And I asked -- walked in one day</p> <p>8 said, what is going on?</p> <p>9 Q. Let's take a step back to the</p> <p>10 initial meeting that we are talking about</p> <p>11 here, if you would.</p> <p>12 You had said you didn't think it</p> <p>13 was funny, or that he was being facetious.</p> <p>14 Was he joking when he said this?</p> <p>15 A. I don't know. I don't know.</p> <p>16 Q. Do you think he thought he was</p> <p>17 joking?</p> <p>18 A. I don't know.</p> <p>19 Listen, I came from a background,</p> <p>20 if a man said something, you held him to his</p> <p>21 word. That is the background I came from. I</p> <p>22 came from an engineering background.</p> <p>23 If a judge says something -- we</p> <p>24 are all adults here, and he is a judge. He</p> <p>25 is not a guy; you know, he is a judge. He is</p>	<p style="text-align: right;">Page 57</p> <p>1 Mario H. Capogrosso</p> <p>2 that you raised was something to do with</p> <p>3 ticket brokers. Can you explain that to me?</p> <p>4 A. Ticket brokers are guys that</p> <p>5 gather tickets from the community: Cab</p> <p>6 drivers, motorists. And they would bring the</p> <p>7 ticket down to lawyers. The lawyers would</p> <p>8 take the ticket and argue the case on behalf</p> <p>9 of the ticket broker and the client without</p> <p>10 ever meeting the client himself.</p> <p>11 And they would get a piece of the</p> <p>12 action, the ticket brokers.</p> <p>13 Q. So the ticket broker would get a</p> <p>14 cut of the legal fee?</p> <p>15 A. The ticket broker would collect</p> <p>16 the legal fee, which I thought was terrible,</p> <p>17 and they would pay the lawyer. The ticket</p> <p>18 broker would take 200 for a ticket, call</p> <p>19 himself a lawyer. I don't what he was</p> <p>20 calling himself. Then they would come down</p> <p>21 to the courthouse, and every -- all the</p> <p>22 attorneys had them. And the ticket broker</p> <p>23 would give the lawyer money, and then the</p> <p>24 lawyer would argue the case, take the case</p> <p>25 on.</p>

<p style="text-align: right;">Page 58</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. You said he -- at one point in</p> <p>3 that description, is there one specific</p> <p>4 ticket broker you are thinking about?</p> <p>5 A. There were a lot of ticket</p> <p>6 brokers, a lot of ticket brokers: Chinese</p> <p>7 ticket brokers, Jewish ticket brokers.</p> <p>8 I felt terrible about it. To me,</p> <p>9 I called the bar association about it. I</p> <p>10 said, is this wrong, for ticket brokers to</p> <p>11 come down and pay lawyers to do tickets for</p> <p>12 people who are not themselves?</p> <p>13 The bar association couldn't give</p> <p>14 me a straight answer. So, you know, for the</p> <p>15 longest time -- first of all, they were</p> <p>16 taking money out of the attorney's pocket,</p> <p>17 which I didn't like.</p> <p>18 And I did call the bar</p> <p>19 association, and they didn't give me a</p> <p>20 straight answer, or they didn't understand</p> <p>21 it. So that was it.</p> <p>22 Q. And you indicated that you found</p> <p>23 something objectionable about the way Judge</p> <p>24 Gelbstein handled ticket brokers. Can you</p> <p>25 explain that?</p>	<p style="text-align: right;">Page 60</p> <p>1 Mario H. Capogrosso</p> <p>2 were saying something to them, and I don't</p> <p>3 know what they were saying.</p> <p>4 But to me, there was an</p> <p>5 appearance of impropriety. I didn't want to</p> <p>6 get involved with it. I felt it was</p> <p>7 abhorrent that ticket brokers would be in his</p> <p>8 office, abhorrent.</p> <p>9 Q. Is it correct to say there is one</p> <p>10 particular ticket broker who was in his</p> <p>11 office, the one who he said was a friend of</p> <p>12 his wife's?</p> <p>13 A. I think there was a father and a</p> <p>14 son. They were related on some basis. They</p> <p>15 were related. I don't know any names.</p> <p>16 Q. Do you know anything else that</p> <p>17 would identify them, of description or other,</p> <p>18 you know, information?</p> <p>19 A. No, no. They had the Jewish --</p> <p>20 one man has the traditional Jewish, I don't</p> <p>21 know, garb that Jewish people wear. Another</p> <p>22 person didn't.</p> <p>23 But I know what they did. They</p> <p>24 weren't lawyers. I knew the lawyers down</p> <p>25 there. They were not lawyers. And I knew</p>
<p style="text-align: right;">Page 59</p> <p>1 Mario H. Capogrosso</p> <p>2 A. They were in his office. They</p> <p>3 were in his office on a weekly basis.</p> <p>4 And I walked into -- I knocked on</p> <p>5 his door one day, and I said, do you know who</p> <p>6 you are having lunch with here? He says, he</p> <p>7 is a friend of my wife. I have dinner with</p> <p>8 him, but I don't know what he does for</p> <p>9 living.</p> <p>10 Q. Who is this, that we are talking</p> <p>11 about?</p> <p>12 A. This is one of the Jewish ticket</p> <p>13 brokers.</p> <p>14 Q. Do you know his name, sir?</p> <p>15 A. No. I didn't want to know his</p> <p>16 name.</p> <p>17 I didn't want to deal with these</p> <p>18 guys; I really didn't. I really didn't want</p> <p>19 to deal with them. I thought what they did</p> <p>20 was wrong. They were taking money out of the</p> <p>21 attorney's pocket, number one. Number two, I</p> <p>22 don't know what kind of representations they</p> <p>23 were making. They were making</p> <p>24 representations in order to get these monies</p> <p>25 from these clients and these motorists. They</p>	<p style="text-align: right;">Page 61</p> <p>1 Mario H. Capogrosso</p> <p>2 what they did.</p> <p>3 Q. And so Judge Gelbstein was having</p> <p>4 lunch with them?</p> <p>5 A. They were in his office on a</p> <p>6 weekly basis. In his office on a weekly</p> <p>7 basis.</p> <p>8 Now, I do --</p> <p>9 Q. Um -- I am sorry, continue.</p> <p>10 A. Well, there was another lady,</p> <p>11 Tanya Rabinovich who I mentioned, who was</p> <p>12 down there, actually in the courtroom,</p> <p>13 calling herself a lawyer.</p> <p>14 But clients, motorists, would</p> <p>15 approach me and say, where is Tanya, the</p> <p>16 lawyer? I said, she is not a lawyer. She is</p> <p>17 not a lawyer. Where is Tanya the lawyer?</p> <p>18 Where is Tanya the lawyer? She is not a</p> <p>19 lawyer.</p> <p>20 She had an office right near the</p> <p>21 DMV at one point, right near the DMV</p> <p>22 upstairs. Where is Tanya, the lawyer? I</p> <p>23 said, she is not a lawyer.</p> <p>24 I called the district attorney</p> <p>25 one day. I said, you have a woman down here</p>

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1 Mario H. Capogrosso
 2 calling herself a lawyer. Does anybody care?
 3 She is making representations that she has a
 4 legal degree, and she is not a lawyer.
 5 You know, I went to law school at
 6 night for four years while I worked during
 7 the day, a full day as an engineer at a
 8 nuclear power plant. I worked at night. I
 9 went a hundred grand in debt to go to this
 10 law school.
 11 And I paid off every dollar.
 12 Every dollar got paid off. I didn't renege
 13 on any loans that I took. Every dollar got
 14 paid off. I passed two bar exams.
 15 And she gets to call herself a
 16 lawyer in his courtroom, so I called the
 17 district attorney concerning her. There is
 18 an investigation made.
 19 Next thing I know, she is not
 20 there any more. And Gelbstein -- Judge
 21 Gelbstein approaches me and says, who are
 22 you, Don Quixote? I said, now I know this
 23 guy is on the take. Now I know it. He wants
 24 everybody to be quiet. He wants everything
 25 to go on as is.

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1 Mario H. Capogrosso
 2 It is in my opinion, and I am
 3 entitled to my opinion. Now I know this guy
 4 is on the take.
 5 Q. And so let's take a step back.
 6 This conversation where he said,
 7 who are you, Don Quixote, when did that
 8 happen?
 9 A. That is after I called the
 10 district attorney on this woman, then I don't
 11 see her anymore.
 12 Q. Do you know when that was?
 13 A. You know, when I first got there,
 14 I didn't understand the game, who all the
 15 players were. But after I started practicing
 16 down there, it is when the clerks started not
 17 to like me.
 18 They liked Tanya. And I have an
 19 understanding why they might have like her.
 20 She was probably paying them off. She was
 21 going to the counter and doing business with
 22 them on a daily basis. She was going up to
 23 the counter, and she would put in and ask for
 24 tickets. She was given -- the clerks were
 25 giving her tickets, summons for the clients

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1 Mario H. Capogrosso
 2 she had.
 3 I said, how does this woman, who
 4 is not a lawyer, and clerks are giving her
 5 the summons that she is asking for, and she
 6 is not a lawyer? How is she doing this?
 7 And she would be rescheduling
 8 these cases for these people. So obviously
 9 she was giving these clerks something, for
 10 them to do this.
 11 I said, this is wrong. I said,
 12 this is wrong. And the clerks were doing her
 13 business.
 14 I called the district attorney,
 15 yeah, I did. I made that statement.
 16 Next thing I know, the clerks
 17 don't like me. The clerks don't like me at
 18 this point.
 19 Q. When was this? Do you remember
 20 what year?
 21 A. If I can refer to my document, I
 22 can probably look at. It is in one of my
 23 exhibits.
 24 One of the clerks said I pushed
 25 her. She actually came up to me -- it is in

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1 Mario H. Capogrosso
 2 one of the documents, one of the exhibits I
 3 gave you. You can look it up. In my
 4 affirmation in response, one of them said I
 5 assaulted them.
 6 There is no assault. I called
 7 the district attorney. She comes over,
 8 yelling and screaming, did you call the
 9 district attorney? I could have denied it.
 10 I could have denied that I didn't call.
 11 I didn't deny it. I told her the
 12 truth: Yeah, I called. You are calling
 13 yourself a lawyer. You are doing business
 14 down here as a lawyer.
 15 She starts yelling and screaming
 16 at me. I tried to get away from her, and I
 17 walk away from her. We might have brushed
 18 shoulders. I don't know. I didn't do
 19 anything to her, but she is right on top of
 20 me.
 21 Now these clerks didn't like me
 22 for that. I have a feeling for that, I
 23 really do, that I called the district
 24 attorney.
 25 Judge Gelbstein didn't like it.

<p style="text-align: right;">Page 66</p> <p>1 Mario H. Capogrosso</p> <p>2 Clerks probably didn't like it. Go ahead.</p> <p>3 Q. So, Mr. Capogrosso, you said you</p> <p>4 called the district attorney, and then there</p> <p>5 was an investigation, and then she wasn't</p> <p>6 there any more; is that correct?</p> <p>7 A. I don't know if there was an</p> <p>8 investigation. Nobody ever reported anything</p> <p>9 to me.</p> <p>10 To me, I did my job. I saw --</p> <p>11 Q. So you called the district</p> <p>12 attorney, and she was not there anymore?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know -- do you know if she</p> <p>15 was kicked out?</p> <p>16 A. All I know is Gelbstein</p> <p>17 approaches me and says, who are you, Don</p> <p>18 Quixote?</p> <p>19 I have no idea. Nobody gave me a</p> <p>20 report as to what happened. I told the</p> <p>21 district attorney what I saw; I told them.</p> <p>22 And after that, I don't see her anymore.</p> <p>23 And that is -- if you look at the</p> <p>24 exhibits, the date of that alleged incident</p> <p>25 between me and her is the date I made the</p>	<p style="text-align: right;">Page 68</p> <p>1 Mario H. Capogrosso</p> <p>2 stopped, him seeing those two Jewish ticket</p> <p>3 brokers?</p> <p>4 A. No. Up until the date May</p> <p>5 11th -- up until May 11th, I still saw them</p> <p>6 down there. Up to May 11th, they were still</p> <p>7 there.</p> <p>8 Q. Okay.</p> <p>9 A. Let me tell you the worst thing,</p> <p>10 because I gotta get this one out. The worst</p> <p>11 thing that really got me about this is when I</p> <p>12 saw Gelbstein in the GE on a side bar, on a</p> <p>13 side bar with Judge Bohmstein, ALJ Bohmstein,</p> <p>14 pleading motorists guilty and rescheduling</p> <p>15 cases. Then I just threw my hands up. I</p> <p>16 said, this is terrible.</p> <p>17 Q. What is it that you saw? Can you</p> <p>18 describe it to me in a little more detail?</p> <p>19 A. Judge Gelbstein, I had some</p> <p>20 tickets GE, general -- waiting to be heard.</p> <p>21 I am sitting there. He walks in with about</p> <p>22 10 or 15, 20 tickets in the thing, before ALJ</p> <p>23 Bohmstein sitting there.</p> <p>24 I am entering a guilty plea on</p> <p>25 this ticket, this ticket, this ticket, five</p>
<p style="text-align: right;">Page 67</p> <p>1 Mario H. Capogrosso</p> <p>2 call, I believe, right around that date.</p> <p>3 Q. And sitting here today, do you</p> <p>4 remember what year that was?</p> <p>5 A. Well, I am not going to look at</p> <p>6 my exhibits; so no, I don't recall.</p> <p>7 Q. Was it before that first lawsuit</p> <p>8 that you had in 2012?</p> <p>9 A. Like I said, I don't remember.</p> <p>10 And I am not going to look at the</p> <p>11 exhibit. You told me not to.</p> <p>12 Q. All right. Was it before 2015?</p> <p>13 A. Absolutely, yes.</p> <p>14 Q. Okay. And similarly, the time</p> <p>15 when Judge Gelbstein was having the two</p> <p>16 Jewish ticket brokers, the father and son, in</p> <p>17 his office, do you remember when that was,</p> <p>18 what year?</p> <p>19 A. Oh, I sure do. That is the first</p> <p>20 day I got there.</p> <p>21 And I understood who the players</p> <p>22 were, who were the brokers, who these ticket</p> <p>23 brokers were and what they did. I saw them</p> <p>24 right from day one.</p> <p>25 Q. And was there a time that it</p>	<p style="text-align: right;">Page 69</p> <p>1 Mario H. Capogrosso</p> <p>2 or six or seven. What the heck is going on</p> <p>3 down here? This is a judge who has access to</p> <p>4 every, every ticket in the system in his</p> <p>5 office. On a computer system, he has access.</p> <p>6 He has access to all of them.</p> <p>7 If he needs to reschedule a case</p> <p>8 because something -- he can do it in office.</p> <p>9 He is doing GE before another judge, not on</p> <p>10 the record. There was no appearance made.</p> <p>11 I said -- I throw my hands up. I</p> <p>12 can't work in this type -- I can't work here.</p> <p>13 This is terrible.</p> <p>14 Q. I am sorry, I may not understand</p> <p>15 this. But if Judge Gelbstein is talking with</p> <p>16 this other judge, you said Judge Bohmstein?</p> <p>17 A. Yeah, on a side bar.</p> <p>18 Q. How do you spell Bohmstein?</p> <p>19 A. B-O-H-M-S-T-E-I-N,</p> <p>20 B-O-H-M-S-T-E-I-N.</p> <p>21 THE COURT REPORTER: Counselor?</p> <p>22 Q. So?</p> <p>23 THE COURT REPORTER: Counselor?</p> <p>24 Counselor?</p> <p>25 THE WITNESS: Yes.</p>

<p style="text-align: right;">Page 70</p> <p>1 Mario H. Capogrosso</p> <p>2 THE COURT REPORTER: I need to go</p> <p>3 off the record.</p> <p>4 MR. THOMPSON: Yes.</p> <p>5 THE COURT REPORTER: You need to</p> <p>6 go off the record for two minutes.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 10:48 a.m. we are off the record.</p> <p>9 (Discussion off the record).</p> <p>10 THE VIDEOGRAPHER: The time is</p> <p>11 10:50. We are on the record.</p> <p>12 Q. So, Mr. Capogrosso, we were</p> <p>13 discussing an instance when you saw Judge</p> <p>14 Gelbstein in the GE room rescheduling cases.</p> <p>15 And I may not understand it.</p> <p>16 But what is wrong with him</p> <p>17 rescheduling cases, as a judge?</p> <p>18 A. If you are carrying a caseload --</p> <p>19 this is what I am thinking. If you are</p> <p>20 carrying a caseload, let me tell you how the</p> <p>21 game is played. Attorneys take tickets in,</p> <p>22 and they would push the tickets out,</p> <p>23 reschedule three, four, five, six times,</p> <p>24 stretch the money, they would call. They</p> <p>25 would stretch the money. You get \$200 a</p>	<p style="text-align: right;">Page 72</p> <p>1 Mario H. Capogrosso</p> <p>2 still don't understand what you contend is</p> <p>3 wrong about what Judge Gelbstein did.</p> <p>4 Because if he is a judge, and he is talking</p> <p>5 to another judge to set up the docket, and</p> <p>6 when cases will be heard, is there anything</p> <p>7 wrong with that?</p> <p>8 A. I am told -- I don't know. I</p> <p>9 don't know. I am -- I reported what I saw</p> <p>10 and what I heard. I don't know. I reported</p> <p>11 what -- if you reschedule things on a sidebar</p> <p>12 without putting in an appearance, and you are</p> <p>13 entering guilty pleas without putting in an</p> <p>14 authorization, to me, there is something</p> <p>15 wrong.</p> <p>16 I don't know. Maybe he had a</p> <p>17 legitimate purpose. I reported what I saw</p> <p>18 and what I heard.</p> <p>19 I know I had a conflict with</p> <p>20 another attorney over a ticket that we were</p> <p>21 put in a room. We bought, put the same one</p> <p>22 in I want to speak with him about.</p> <p>23 He says, I am covering the case</p> <p>24 for Gelbstein.</p> <p>25 Q. So let's put a pin on that one</p>
<p style="text-align: right;">Page 71</p> <p>1 Mario H. Capogrosso</p> <p>2 ticket, you stretch it out for two years, and</p> <p>3 plead the guy guilty, and you give the guy no</p> <p>4 points. You give the motorist no points.</p> <p>5 It is called stretching the</p> <p>6 money, which is what the attorneys were</p> <p>7 doing. A lot of attorneys would go to the</p> <p>8 courtroom and enter a guilty plea, which is</p> <p>9 one way of handling a ticket.</p> <p>10 If you stretch it out 18 months,</p> <p>11 the points don't show up on your license. If</p> <p>12 you reschedule a whole bunch of cases, and</p> <p>13 you push them out 18 months, and then you</p> <p>14 enter a guilty plea for the guy, and he</p> <p>15 doesn't get suspended, and they waive the</p> <p>16 STV, and they give them a minimum fine, you</p> <p>17 know, the motorist goes home happy.</p> <p>18 My license is still good. I am</p> <p>19 happy I got a minimum fine. I am not</p> <p>20 suspended. That is one way you can play the</p> <p>21 game.</p> <p>22 Did I play it like that? No.</p> <p>23 They hired me to fight a ticket, I fought a</p> <p>24 ticket; so my clients liked me.</p> <p>25 Q. So, Mr. Capogrosso, I guess I</p>	<p style="text-align: right;">Page 73</p> <p>1 Mario H. Capogrosso</p> <p>2 and come to that in just a second.</p> <p>3 This instance when you saw Judge</p> <p>4 Gelbstein rescheduling tickets with judge</p> <p>5 Bohmstein --</p> <p>6 A. And entering guilty pleas.</p> <p>7 Q. -- and entering guilty pleas.</p> <p>8 First of all, you said you</p> <p>9 reported that.</p> <p>10 Who did you report that to?</p> <p>11 A. Who did I report it to? No, at</p> <p>12 that point I said, I can't work here anymore.</p> <p>13 At that point after I was removed, after I</p> <p>14 was removed, there is nobody to report it to.</p> <p>15 Nobody is listening.</p> <p>16 I write to your office. Your</p> <p>17 office doesn't respond to me in my letter of</p> <p>18 complaint. I wrote a letter to Pricket</p> <p>19 Morgan, March 20th. I got no response.</p> <p>20 I have written to the grievance</p> <p>21 committee. I explained this in the grievance</p> <p>22 committee. They don't care. They said they</p> <p>23 have no authority over this.</p> <p>24 I have wrote to the Inspector</p> <p>25 General's office. They told me it is an</p>

<p style="text-align: right;">Page 74</p> <p>1 Mario H. Capogrosso</p> <p>2 internal review. I wrote to the Commission</p> <p>3 of Judicial Conduct. They have no control</p> <p>4 over what goes on at the TVB, because it is</p> <p>5 not a recognized tribunal.</p> <p>6 I forgot who else I wrote to, but</p> <p>7 I wrote and I explained everything that I</p> <p>8 saw. And they all told me they have no</p> <p>9 jurisdiction over this tribunal and what goes</p> <p>10 on.</p> <p>11 Q. And so my next question is, this</p> <p>12 time when you saw Judge Gelbstein speaking</p> <p>13 with Judge Bohmstein and doing this with the</p> <p>14 cases, when was that, approximately?</p> <p>15 A. That was right before this</p> <p>16 happened that I got removed. It was maybe a</p> <p>17 month or less before I got removed, May 11,</p> <p>18 2015.</p> <p>19 Q. So April or May of 2015?</p> <p>20 A. Yeah. The first time I ever --</p> <p>21 Q. Do you have any reason to believe</p> <p>22 that the adjournments and guilty pleas that</p> <p>23 you saw were not valid, were not correct?</p> <p>24 A. As an attorney, if you to tell me</p> <p>25 how do I get a piece of the action, if you</p>	<p style="text-align: right;">Page 76</p> <p>1 Mario H. Capogrosso</p> <p>2 those adjournments and guilty pleas were</p> <p>3 correct?</p> <p>4 A. No, I said I have no idea. I</p> <p>5 reported what I saw and heard. That is it.</p> <p>6 I have no idea what he was doing.</p> <p>7 I don't know. I never questioned him about</p> <p>8 it. At that point, I just threw my hands up.</p> <p>9 I don't know what he was doing. I reported</p> <p>10 truthfully what I heard and what I saw. That</p> <p>11 is not my job to make this investigation. It</p> <p>12 is not my job.</p> <p>13 Q. So lastly you mentioned one other</p> <p>14 incident, when you say someone said that he</p> <p>15 was covering a case for Judge Gelbstein.</p> <p>16 Can you explain to me what you</p> <p>17 are discussing there?</p> <p>18 A. We both put a ticket in.</p> <p>19 Sometimes clients they hired two lawyers</p> <p>20 because they lose track of something. They</p> <p>21 got two lawyers on the same summons. We both</p> <p>22 put the ticket into GE, into the courtroom.</p> <p>23 I go in the courtroom, the clerk</p> <p>24 or the court -- and it has happened several</p> <p>25 times. There is a lot of clients, a lot of</p>
<p style="text-align: right;">Page 75</p> <p>1 Mario H. Capogrosso</p> <p>2 have ticket brokers in your office, and you</p> <p>3 tell me you don't know what they do for a</p> <p>4 living, but they are friends of your wife,</p> <p>5 and you don't know what they do for a living;</p> <p>6 when you have a discrepancy with another</p> <p>7 lawyer, and he tells me I am covering the</p> <p>8 case for Gelbstein, and then you see this</p> <p>9 happening in the GE, and then I make</p> <p>10 complaints and complaints and complaints</p> <p>11 against concerning the action of Defendant</p> <p>12 Smart, right, and he laughs and giggles and</p> <p>13 tells me a spade is a spade, and he doesn't</p> <p>14 respond to any of the complaints, right.</p> <p>15 The harassment continues. The</p> <p>16 man wants me out. The man wants me out. He</p> <p>17 doesn't me to see what he is doing. He wants</p> <p>18 me out, and he got me there.</p> <p>19 Q. I appreciate that,</p> <p>20 Mr. Capogrosso, but the question was a little</p> <p>21 bit more narrow than that.</p> <p>22 These specific adjournments and</p> <p>23 these specific guilty pleas in this</p> <p>24 conversation between Judge Gelbstein and</p> <p>25 Judge Bohmstein, do you know whether or not</p>	<p style="text-align: right;">Page 77</p> <p>1 Mario H. Capogrosso</p> <p>2 motorists. Sometimes they hire the same</p> <p>3 lawyer. There are lawyers on both -- there</p> <p>4 is two lawyers on the same ticket, for</p> <p>5 whatever reason.</p> <p>6 So I will go up to this other</p> <p>7 attorney. I said, what is going on? And he</p> <p>8 tells me, I am covering the case for</p> <p>9 Gelbstein. I said, do what you gotta do.</p> <p>10 And I pulled off my ticket, and I</p> <p>11 said, you want to cover it, go ahead.</p> <p>12 And then I am thinking back to</p> <p>13 myself, what is going on here? You are</p> <p>14 covering the case for Gelbstein. Who am I</p> <p>15 going to report it to? I am going to report</p> <p>16 it to Judge Gelbstein. Who is listening to</p> <p>17 these complaints?</p> <p>18 I reported it to Bushra Vahdat.</p> <p>19 Who wants to listen to these complaints, so I</p> <p>20 let it go.</p> <p>21 Q. So, Mr. Capogrosso, first of all,</p> <p>22 who is the attorney who said he was covering</p> <p>23 the case for Judge Gelbstein?</p> <p>24 A. Eugene Gerbasi.</p> <p>25 Q. Eugene Gerbasi.</p>

<p style="text-align: right;">Page 78</p> <p>1 Mario H. Capogrosso</p> <p>2 Can you spell Gerbasi for me?</p> <p>3 A. I believe G-E-R-B-A-S-I.</p> <p>4 Q. And so when he said was covering</p> <p>5 the case, what did that mean?</p> <p>6 A. That means he was going to argue</p> <p>7 the case. In my opinion, that is what it</p> <p>8 meant.</p> <p>9 Q. Okay. So let me ask, what's --</p> <p>10 what's wrong with him arguing a case?</p> <p>11 A. You are arguing a case for a</p> <p>12 judge.</p> <p>13 I don't know. I don't know.</p> <p>14 Maybe there is nothing wrong with it. I</p> <p>15 reported what I heard. I don't know. You do</p> <p>16 your investigation. That is not my job. I</p> <p>17 reported truthfully what I heard, what I saw.</p> <p>18 I don't know.</p> <p>19 Q. So he said he was covering -- he</p> <p>20 said he was covering a case.</p> <p>21 You know, was Judge Gelbstein the</p> <p>22 person with the ticket, or I guess what is</p> <p>23 your concern about?</p> <p>24 A. I don't know. He said he is</p> <p>25 covering a case for Gelbstein.</p>	<p style="text-align: right;">Page 80</p> <p>1 Mario H. Capogrosso</p> <p>2 Mr. Capogrosso.</p> <p>3 Why did you decide to sue in this</p> <p>4 case?</p> <p>5 A. I want to go back to practicing</p> <p>6 law at New York TVB. I want to clear my</p> <p>7 name. I want to clear my name.</p> <p>8 I was removed from the Brooklyn</p> <p>9 TVB on May 11, 2015. Nobody looked at this</p> <p>10 videotape, which we established that</p> <p>11 yesterday. Nobody looked at it.</p> <p>12 Did an Danielle Calvo, somebody</p> <p>13 told her that there was an incident between</p> <p>14 me and Smart. Danielle Calvo makes a call to</p> <p>15 Judge Gelbstein. Gelbstein calls Traschen,</p> <p>16 and Traschen tells Calvo to have me removed.</p> <p>17 Nobody looks at the videotape.</p> <p>18 The videotape was never kept. It is lost.</p> <p>19 There is affidavit and affidavit and</p> <p>20 accusations made against me and my name and</p> <p>21 my reputation as a lawyer that I was never</p> <p>22 served with so I could respond.</p> <p>23 I asked yesterday, how come you</p> <p>24 didn't file an affidavit? I never received a</p> <p>25 complaint. I can't respond to a complaint if</p>
<p style="text-align: right;">Page 79</p> <p>1 Mario H. Capogrosso</p> <p>2 If you see ticket brokers -- if I</p> <p>3 see ticket brokers in your office, and you</p> <p>4 tell me you don't know what they are doing</p> <p>5 for a living, I see you pleading guys in the</p> <p>6 GE and rescheduling cases, and if another</p> <p>7 attorney tells me he is covering a case for</p> <p>8 you, my opinion -- and only my opinion, which</p> <p>9 I am entitled to -- you got a caseload. You</p> <p>10 got a caseload, and you are trying to get a</p> <p>11 piece of the action. That is my opinion.</p> <p>12 Q. When you say you have got a</p> <p>13 caseload, you think he is practicing law as</p> <p>14 an attorney at the TVB?</p> <p>15 A. As well as being a judge. Yeah,</p> <p>16 that is my opinion. That is my opinion. I</p> <p>17 don't know if it is true or not. That is not</p> <p>18 my job. That is my opinion. I don't know if</p> <p>19 it is true. I don't know if that is true. I</p> <p>20 reported what I saw and what I heard.</p> <p>21 Q. But you never saw Judge Gelbstein</p> <p>22 arguing a case at the TVB or representing a</p> <p>23 client at THE TVB; is that correct?</p> <p>24 A. No, I never saw him do that. No.</p> <p>25 Q. Let's take a step back,</p>	<p style="text-align: right;">Page 81</p> <p>1 Mario H. Capogrosso</p> <p>2 I never received it.</p> <p>3 I wrote to -- and nobody is --</p> <p>4 and I wrote to Traschen. I wrote to Bushra</p> <p>5 Vahdat. And I wrote to Judge Gelbstein, and</p> <p>6 I wrote to your office.</p> <p>7 And when I write to your office</p> <p>8 concerning my concern -- detailing my</p> <p>9 concerns what is going on, I get no response</p> <p>10 from any of these offices.</p> <p>11 And then I have some security</p> <p>12 guard approach me on the morning of May 11th,</p> <p>13 instigates an altercation, and I am removed</p> <p>14 within five minutes.</p> <p>15 I want to clear my name. I think</p> <p>16 I was set up. I think Judge Gelbstein and</p> <p>17 all these other parties wanted me out because</p> <p>18 I wasn't playing the game.</p> <p>19 And I want to clear my name. I</p> <p>20 want to get back to work. I want the money</p> <p>21 that I lost. And I think whoever did this,</p> <p>22 especially if they are judges, should get</p> <p>23 punished. They should not be a judges, and</p> <p>24 they should not be represented --</p> <p>25 Q. When you say they wanted you out</p>

<p style="text-align: right;">Page 82</p> <p>1 Mario H. Capogrosso</p> <p>2 because you weren't playing the game, what do</p> <p>3 you mean?</p> <p>4 A. I was not playing off the clerks.</p> <p>5 I was not paying off the clerks. I was not</p> <p>6 dealing with ticket brokers. I was not</p> <p>7 giving the clerks part of this court money</p> <p>8 and cash for the holidays.</p> <p>9 The other attorneys were.</p> <p>10 Several attorneys walked up to me, how much</p> <p>11 you giving the clerks for Christmas? I said,</p> <p>12 I am giving them nothing. I am giving them</p> <p>13 nothing.</p> <p>14 I gotta pay them. They have a</p> <p>15 job to do. They get paid. I am not giving</p> <p>16 them any more money.</p> <p>17 Attorney said, why don't you buy</p> <p>18 them breakfast? I am not going to buy them</p> <p>19 breakfast in the morning. I am not doing</p> <p>20 that. There is an appearance of impropriety.</p> <p>21 I refuse to participate.</p> <p>22 There was an appearance. I don't</p> <p>23 know if you are allowed to do it or not. I</p> <p>24 don't know if you are allowed to give the</p> <p>25 clerks money. I don't know if you are</p>	<p style="text-align: right;">Page 84</p> <p>1 Mario H. Capogrosso</p> <p>2 ticket brokers.</p> <p>3 Let me ask you, the practice of</p> <p>4 ticket brokers, people who bring cases in in</p> <p>5 exchange for a cut of the attorney's fees, is</p> <p>6 that legal or is that illegal?</p> <p>7 A. I have no idea. I don't know.</p> <p>8 I think if you are calling</p> <p>9 yourself a lawyer, and you are taking a the</p> <p>10 fee and representing that you are an</p> <p>11 attorney, and you take that fee, I think that</p> <p>12 is terrible. I think that is wrong.</p> <p>13 I think if you go into the ticket</p> <p>14 counter, like Tanya Rabinovich was doing, and</p> <p>15 the clerks were giving a whole of bunch</p> <p>16 summons for the day and rescheduling cases</p> <p>17 for her, and she is not a lawyer, I think</p> <p>18 that is practicing law.</p> <p>19 I think that is wrong. I think</p> <p>20 that is wrong. Absolutely wrong. Because</p> <p>21 now you are acting -- now you are taking an</p> <p>22 authority over that summons.</p> <p>23 I don't know. And you are --</p> <p>24 and maybe you are even pleading guilty.</p> <p>25 Maybe she was pleading them guilty, too. You</p>
<p style="text-align: right;">Page 83</p> <p>1 Mario H. Capogrosso</p> <p>2 allowed to give them breakfast, give them</p> <p>3 parties. There was appearance of</p> <p>4 impropriety.</p> <p>5 I chose not to participate. I</p> <p>6 chose not to.</p> <p>7 Q. And you think that everyone</p> <p>8 wanted to get rid of you because you weren't</p> <p>9 paying money for the clerks?</p> <p>10 A. I don't know why they wanted to</p> <p>11 get rid -- they didn't like me. They didn't</p> <p>12 like my approach, my style, whatever. They</p> <p>13 didn't like me, I knew that.</p> <p>14 My clients loved me. My clients</p> <p>15 loved me. You don't have one grievance from</p> <p>16 or complaint from a client over ten years of</p> <p>17 service in this tribunal. Ten years I was</p> <p>18 down there, from motorist or a client. Other</p> <p>19 than maybe a fee dispute or something, that</p> <p>20 is it. Other than this one to Mr. Perez, I</p> <p>21 never got -- I can't explain what happened</p> <p>22 there. Not one complaint --</p> <p>23 Q. We will discuss Mr. Perez in a</p> <p>24 bit later today.</p> <p>25 Taking a step back, you mentioned</p>	<p style="text-align: right;">Page 85</p> <p>1 Mario H. Capogrosso</p> <p>2 can do that at the counter.</p> <p>3 Q. But, Mr. Capogrosso, assuming</p> <p>4 that the ticket broker isn't holding</p> <p>5 themselves out to be anything but a ticket</p> <p>6 broker, is there anything illegal or</p> <p>7 unethical about the practice?</p> <p>8 A. I don't know. I don't know. If</p> <p>9 you are calling yourself a ticket broker, I</p> <p>10 don't know. I don't know.</p> <p>11 I think if you make the</p> <p>12 representation that you are lawyer, that is</p> <p>13 wrong, or you are making --</p> <p>14 Q. And --</p> <p>15 A. I think that is wrong. I think</p> <p>16 if you come down to the DMV with a ticket,</p> <p>17 and the attorney takes the ticket and doesn't</p> <p>18 talk to the client directly, directly, I</p> <p>19 think that is wrong. Because then you don't</p> <p>20 know what the client expectation is under.</p> <p>21 The attorney is not talking to</p> <p>22 the client himself, he is talking to an</p> <p>23 intermediary, and I think that is wrong. You</p> <p>24 should have some type of interaction with the</p> <p>25 lawyer directly.</p>

<p style="text-align: right;">Page 86</p> <p>1 Mario H. Capogrosso</p> <p>2 I don't know if it is right or</p> <p>3 wrong. You are the Attorney General; that is</p> <p>4 your decision.</p> <p>5 I am telling you what I saw and</p> <p>6 what I heard. I am telling you that I didn't</p> <p>7 feel comfortable dealing with these people.</p> <p>8 I did not.</p> <p>9 Q. Mr. Capogrosso, sitting here</p> <p>10 today, you are not aware of any statute or</p> <p>11 regulation or source of authority that says</p> <p>12 that ticket brokers are not legal or</p> <p>13 permissible; is that correct?</p> <p>14 A. I think you can't make a</p> <p>15 representation that you are a lawyer when you</p> <p>16 are not a lawyer and collect a fee.</p> <p>17 Q. But --</p> <p>18 A. I think that is wrong.</p> <p>19 Q. Leaving aside if they don't</p> <p>20 represent that they are a lawyer, you are not</p> <p>21 aware of any statute prohibiting ticket</p> <p>22 brokers, correct?</p> <p>23 A. I don't know.</p> <p>24 Q. Statute or --</p> <p>25 A. I didn't think its ever been</p>	<p style="text-align: right;">Page 88</p> <p>1 Mario H. Capogrosso</p> <p>2 A. I wanted to see if they had</p> <p>3 anything against me. Seriously. I gave them</p> <p>4 three years to bring their case against me.</p> <p>5 They wanted to sweep my complaints and</p> <p>6 everything I had under the rug. If there was</p> <p>7 a complaint against me or my office, you</p> <p>8 could have aggrieved me.</p> <p>9 I was waiting for a grievance. I</p> <p>10 was waiting for them to sue me. If I had</p> <p>11 assaulted this security guard, I could have</p> <p>12 been sued for assault. They brought nothing</p> <p>13 against me for three years. I waited three</p> <p>14 years to see if they had anything against me.</p> <p>15 They had nothing against me.</p> <p>16 Nothing. Not an assault, not a criminal</p> <p>17 charge, not a grievance to the grievance</p> <p>18 committee, nothing. They had nothing to hold</p> <p>19 their hat on, other than they removed me</p> <p>20 improperly. And I think they set me up that</p> <p>21 morning. I waited three years because I</p> <p>22 wanted to see if they had anything against</p> <p>23 me, and they didn't.</p> <p>24 Q. Is it possible they were just</p> <p>25 satisfied that you were no longer at TVB?</p>
<p style="text-align: right;">Page 87</p> <p>1 Mario H. Capogrosso</p> <p>2 broached, this question.</p> <p>3 Q. Okay.</p> <p>4 A. I don't think the question has</p> <p>5 ever been looked at.</p> <p>6 Q. Mr. Capogrosso, did there come a</p> <p>7 time when ticket brokers were banned from the</p> <p>8 TVB?</p> <p>9 A. I saw ticket brokers there up</p> <p>10 until the day I left, so obviously they were</p> <p>11 not banned. I saw them up till the day -- I</p> <p>12 know some paralegals were banned because they</p> <p>13 were taking money, stealing money, but I</p> <p>14 didn't see ticket brokers banned.</p> <p>15 Q. So your testimony is no, there</p> <p>16 was never a ban on ticket brokers?</p> <p>17 A. Not that I was aware of. I</p> <p>18 always saw them down there, even up to the</p> <p>19 day I was asked to leave.</p> <p>20 Q. All right. So a couple more</p> <p>21 questions about bringing the case.</p> <p>22 You were expelled from practice</p> <p>23 in 2015. You brought this case in 2018.</p> <p>24 Why did you wait so long to bring</p> <p>25 the case?</p>	<p style="text-align: right;">Page 89</p> <p>1 Mario H. Capogrosso</p> <p>2 A. I know they wanted me out. They</p> <p>3 wanted me out, and they got me out, and they</p> <p>4 wanted -- and they wanted to ignore any</p> <p>5 complaints or any follow-up.</p> <p>6 They didn't want to talk to me.</p> <p>7 I wrote letters, I made phone calls. Nothing</p> <p>8 was answered. I wrote letters to your</p> <p>9 office, it wasn't answered. I wrote to</p> <p>10 Traschen, Bushra Vahdat, Gelbstein. They</p> <p>11 were all ignored.</p> <p>12 I was charged -- I was not</p> <p>13 charged by the police. There was nothing</p> <p>14 they had against me. I did nothing wrong.</p> <p>15 Q. And so you were expelled in May</p> <p>16 of 2015.</p> <p>17 Why didn't you bring an Article</p> <p>18 78 proceeding?</p> <p>19 A. Because I couldn't get money. I</p> <p>20 had money that I had to return, that I was</p> <p>21 due. I couldn't get money in an Article 78</p> <p>22 proceeding.</p> <p>23 I wanted a Federal Court judge on</p> <p>24 this case. I was tired with this New York</p> <p>25 State Court, everybody protecting one another</p>

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1 Mario H. Capogrosso
 2 and brushing complaints under the rug. I was
 3 tired of it. I wanted a Federal Court judge
 4 to listen to this complaint, because they
 5 stand above it. That was my opinion. I
 6 wanted a Federal Court judge, number one.
 7 And two, I was owed money, and I
 8 can't get that in an Article 78 proceeding.
 9 Q. So you think -- so you think the
 10 New York State Courts were corrupt?
 11 A. No. I didn't think I was going
 12 to get a fair hearing.
 13 Q. Why not?
 14 A. I wanted a Federal Court judge.
 15 I wanted a judge who stood above it.
 16 Q. Why didn't you think you would
 17 get a fair hearing in Kings County Supreme
 18 Court?
 19 A. I didn't think I would.
 20 Q. Why not?
 21 A. I saw how all the judges at the
 22 TVB were treating me. I saw how the judges
 23 at the TVB, Judge Gelbstein, laughing and
 24 giggling when I made my complaint; a spade is
 25 a spade. Bushra Vahdat lying, a judge lying.

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1 Mario H. Capogrosso
 2 I can go into her lies. Traschen not
 3 returning phone calls.
 4 I saw how I was being treated. I
 5 didn't think I was going to get a fair
 6 chance. That was my decision.
 7 I told you why I made it. I
 8 wanted to see, number one, if they had
 9 anything against me, either criminally or by
 10 way of a grievance, and they do not.
 11 And two, I wanted a judge who
 12 stood above it all.
 13 And three, I was owed money.
 14 Q. So if you felt that the State
 15 Supreme Court was going to be corrupt or
 16 unfair, why would --
 17 A. I didn't say that. I said I
 18 wasn't going to get a fair chance.
 19 MR. THOMPSON: Withdrawn.
 20 Q. If you felt the State Supreme
 21 Court was going to be unfair, why would the
 22 Federal Court be any different?
 23 A. I told you my belief is a Federal
 24 Court judge sits above this, sits above it.
 25 That is just my opinion. I am entitled to my

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1 Mario H. Capogrosso
 2 opinion. And I wanted the money owed to me
 3 on this case.
 4 Q. All right.
 5 MR. THOMPSON: Hold on one
 6 second. And this maybe a little dicey,
 7 because we are doing this over Zoom, but
 8 I am going to share a document with you
 9 and with everyone. So please, everyone
 10 let me know if there is a problem
 11 viewing this.
 12 Can everyone see this document?
 13 THE WITNESS: Yes.
 14 MR. THOMPSON: Mr. Videographer
 15 and Madam Court Reporter, can you see
 16 the document?
 17 THE COURT REPORTER: Yes.
 18 MR. VIDEOGRAPHER: I am sorry.
 19 My mic was muted.
 20 I see it, Counsel.
 21 MR. THOMPSON: Okay. Very good.
 22 Q. Mr. Capogrosso, do you recognize
 23 this document?
 24 A. My affirmation of service.
 25 Q. I will scroll down to page two,

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1 Mario H. Capogrosso
 2 because that may make it a little easier to
 3 recognize.
 4 A. Yeah. My response to your
 5 interrogatories, yeah. Yes, I do.
 6 Q. And this is your document that
 7 you wrote, correct?
 8 A. Yes. Well, I have to see my
 9 signature. But yeah, I would assume it is.
 10 Q. We can go down here to page --
 11 A. Yeah, that is my signature.
 12 Q. -- 17. That is your signature?
 13 A. Yes.
 14 MR. THOMPSON: Madam, I ask you
 15 to mark this as Defendant's 1, with the
 16 understanding that we discussed before
 17 that it will actually be formally marked
 18 once it is entered into the Veritext
 19 server after the deposition.
 20 Is that something that you need
 21 to explain on the record, Madam Court
 22 Reporter?
 23 THE COURT REPORTER: No.
 24 (Whereupon, a document was deemed
 25 marked as Defendant's Exhibit 1 for

<p style="text-align: right;">Page 94</p> <p>1 Mario H. Capogrosso 2 identification, as of this date.) 3 Q. Let's go down to page 17. And 4 again, you said this was your signature? 5 A. Yes. 6 Q. And this declaration on page 18, 7 you declared that, correct? 8 A. Yes. 9 Q. So do you still believe 10 everything in your interrogatory responses is 11 true and correct? 12 A. I signed it, so yes. 13 Q. Are you aware under the Federal 14 Rules, you have the right and the obligation 15 to amend your responses if anything is not 16 correct or if there is an important omission? 17 A. Yes. I am trying to be truthful, 18 yes. 19 Q. Okay. So let's go up there to 20 interrogatory one. We are on page five. I 21 would like to talk a little bit about the 22 damages that you are claiming in this case. 23 A. All right. 24 Q. So interrogatory number one, we 25 asked you for a calculation of damages and</p>	<p style="text-align: right;">Page 96</p> <p>1 Mario H. Capogrosso 2 A. Judge Gelbstein. Bushra Vahdat, 3 the worst of them, Bushra Vahdat. Ida 4 Traschen, your clerical staff, Danielle 5 Calvo, who never looked at the videotape and 6 had me removed. Who else? Melanie Levine, 7 another clerical supervisor who I didn't 8 mention. 9 Q. Okay. 10 A. David Smart, who approached me 11 and instigated this. 12 Q. And you want them all to be 13 punished? 14 A. Yes, I do. Yeah, yes. The jury 15 is going to make that determination. 16 But do I seek punishment? Yes. 17 Q. And are you aware that Ms. Vahdat 18 is no longer a defendant in this case, and I 19 don't believe Ms. Levine was ever a defendant 20 in this case? 21 A. True. That is true. 22 Q. So this figure, this 20 million 23 dollar figure, where does that come from? 24 A. Where does it come from? 25 Q. Yes?</p>
<p style="text-align: right;">Page 95</p> <p>1 Mario H. Capogrosso 2 how they were calculated. 3 The first category you see, you 4 said plaintiff seeks punitive damages in an 5 amount to be determined, but not to exceed 20 6 million dollars, as stated in your complaint. 7 How much punitive damages are you 8 actually seeking, because there is sort of 9 not a specific figure. 10 A. Everything I stated in my 11 complaint, 20 million dollars per count. I 12 have to have look at my -- 13 Q. 20 million dollars? 14 A. It is my count. 15 Q. So you are seeking 20 million 16 dollars in punitive damages? 17 A. Yeah, sure. Absolutely. 18 Q. Where does that figure come from? 19 A. These are judges. Judges who 20 acted wrongly. Judges who acted wrongly to 21 have damaged my name and reputation, and they 22 need to be honest. That is my opinion. That 23 is for a jury to decide how much. 24 Q. When you say judges, do you 25 mean -- who specifically do you mean?</p>	<p style="text-align: right;">Page 97</p> <p>1 Mario H. Capogrosso 2 A. That is just a number. 3 It comes from my heart. That is 4 where it comes from. It is how I felt when I 5 wrote this complaint. What these judges, 6 this tribunal did to me, it comes from my 7 heart. 8 Q. So there is no formula that you 9 used to get there? 10 A. I don't know how you arrive at a 11 formula for punitive damages. I don't know 12 if there is formula. 13 Q. So no? 14 A. It comes from my heart. It comes 15 from the damage to my reputation and my name, 16 which I value at 20 million dollars. All 17 right. The damage to my name and reputation 18 as a lawyer, as a lawyer that I want to 19 continue practicing. 20 And I told you, I am going to 21 work until I drop, and I want to continue to 22 work my whole life. 23 Damage to my name and reputation 24 as a lawyer, that is where it comes from. 25 Q. So were --</p>

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<p style="text-align: right;">Page 98</p> <p>1 Mario H. Capogrosso</p> <p>2 A. And I have to explain this</p> <p>3 number, explain my removal to any court that</p> <p>4 I seek admittance to. Any court, I have to</p> <p>5 explain this somehow.</p> <p>6 Q. So why 20 million dollars and not</p> <p>7 50 million dollars or five million dollars or</p> <p>8 500,000?</p> <p>9 A. I don't -- let's see. All right.</p> <p>10 Let's see. Normally -- I am 58 when I wrote</p> <p>11 this. I want to work at least -- I was</p> <p>12 figuring a million dollars a year for the</p> <p>13 next 20 years, the damage to my name and</p> <p>14 reputation.</p> <p>15 Q. So you viewed this punitive</p> <p>16 damage as covering the damage to your name</p> <p>17 and reputation, correct?</p> <p>18 A. Name, reputation and for the</p> <p>19 wrongful conduct, the wrongful, improper</p> <p>20 conduct of judges, the clerical staff at the</p> <p>21 Brooklyn TVB; wrongful, egregious conduct of</p> <p>22 these judges and this clerical staff, yes.</p> <p>23 Q. So moving to item number two, you</p> <p>24 say \$122,715 in lost revenue, representing</p> <p>25 approximately 15 months of projected</p>	<p style="text-align: right;">Page 100</p> <p>1 Mario H. Capogrosso</p> <p>2 you had already collected this money; is that</p> <p>3 correct?</p> <p>4 A. Part of it was collected. Not</p> <p>5 all of it.</p> <p>6 It was due. All of that was due.</p> <p>7 Part it was, part of it wasn't. It is all in</p> <p>8 the exhibit to you.</p> <p>9 MR. THOMPSON: So let's go to</p> <p>10 that exhibit. I am going to figure out</p> <p>11 how to stop sharing my screen. Please</p> <p>12 bear with me. I am having some</p> <p>13 technical difficulties.</p> <p>14 Can you guys see Exhibit 2 now?</p> <p>15 THE WITNESS: No.</p> <p>16 MR. THOMPSON: You are seeing the</p> <p>17 same thing?</p> <p>18 THE WITNESS: Yes, not seeing any</p> <p>19 exhibits.</p> <p>20 MR. THOMPSON: You are not seeing</p> <p>21 anything?</p> <p>22 THE WITNESS: No.</p> <p>23 MR. THOMPSON: All right. Can</p> <p>24 everyone see this?</p> <p>25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 Mario H. Capogrosso</p> <p>2 receipts.</p> <p>3 Can you explain how you came to</p> <p>4 that figure?</p> <p>5 A. I gave you my exhibit. That was</p> <p>6 the money that I had collected, the money</p> <p>7 that I was owed to me. It was the total</p> <p>8 monies owed, I think.</p> <p>9 And I gave you my breakdown that</p> <p>10 was still on my calendar, that I either would</p> <p>11 have earned or collected if I was given the</p> <p>12 ability to represent to finish my caseload.</p> <p>13 It was \$122,000, and was still remaining on</p> <p>14 my caseload going forward.</p> <p>15 Q. Okay.</p> <p>16 A. From May 11th, the day I left, my</p> <p>17 caseload showed \$122,000.</p> <p>18 Q. So these were cases that you had</p> <p>19 already -- that you had already argued and</p> <p>20 conducted, that you had outstanding bills</p> <p>21 for, or these were cases that you were going</p> <p>22 to argue in the future?</p> <p>23 A. Going to argue in the future,</p> <p>24 that I was not able to earn.</p> <p>25 Q. Okay. And you had already -- and</p>	<p style="text-align: right;">Page 101</p> <p>1 Mario H. Capogrosso</p> <p>2 MR. THOMPSON: Okay. So let's</p> <p>3 rotate this, just so that it is facing</p> <p>4 up.</p> <p>5 So can everyone see this document</p> <p>6 here?</p> <p>7 THE VIDEOGRAPHER: Yes, Counsel.</p> <p>8 THE WITNESS: Yes.</p> <p>9 Q. And, Mr. Capogrosso, do you</p> <p>10 recognize this document?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. That is my Excel worksheet that</p> <p>14 shows my -- the date that I was initially</p> <p>15 hired, the location.</p> <p>16 I kept a very detailed calendar,</p> <p>17 very detailed. The subject matter would show</p> <p>18 the client's name and the ticket, which I</p> <p>19 redacted; the due date, which is the date I</p> <p>20 had to be in court; the total amount that I</p> <p>21 charged on the case, the amount that was paid</p> <p>22 and the amount that was owed.</p> <p>23 Now, on the ones that are on the</p> <p>24 right there, it wasn't a Brooklyn TVB case or</p> <p>25 a TVB case for Red Hook, it was down in</p>

26 (Pages 98 - 101)

<p style="text-align: right;">Page 102</p> <p>1 Mario H. Capogrosso</p> <p>2 criminal court. I moved that to the right.</p> <p>3 I didn't feel that was appropriate.</p> <p>4 Q. So for instance, you are talking</p> <p>5 about this line here, and I am</p> <p>6 highlighting --</p> <p>7 A. Yes.</p> <p>8 Q. -- this line here, Monday,</p> <p>9 April 27, 2015, due Monday, May 18, 2015?</p> <p>10 A. Which myself, I had to be --</p> <p>11 Q. Page one.</p> <p>12 A. I had to be on Red Hook, which is</p> <p>13 criminal court, down in Brooklyn, on May --</p> <p>14 and that was -- gave me 300 on that case.</p> <p>15 Yes, so I didn't put that in</p> <p>16 there, because it wasn't a TVB case.</p> <p>17 Q. Just for the record, this</p> <p>18 document is number P191 through P206,</p> <p>19 correct?</p> <p>20 A. That was my Bates Stamp when I</p> <p>21 submitted the document to you.</p> <p>22 Q. Can you explain to me what the</p> <p>23 start date means?</p> <p>24 A. The start date was when I</p> <p>25 initially got hired on, the date.</p>	<p style="text-align: right;">Page 104</p> <p>1 Mario H. Capogrosso</p> <p>2 court after May 11th. I was ordered not to,</p> <p>3 and I did not. I didn't take any new cases</p> <p>4 on after May 11th and have the ability --</p> <p>5 Q. And so --</p> <p>6 A. Go ahead.</p> <p>7 Q. And so what is -- is BS, Brooklyn</p> <p>8 South?</p> <p>9 A. Yes.</p> <p>10 Q. What is appeal?</p> <p>11 A. Appeal, they hired me on an</p> <p>12 appeal.</p> <p>13 Q. Is that DMV appeals court?</p> <p>14 A. Yes. But I didn't take anything</p> <p>15 after May 11th.</p> <p>16 Q. What is STLISL?</p> <p>17 A. Staten Island.</p> <p>18 Q. And what is Kent?</p> <p>19 A. That would have been Upstate,</p> <p>20 which I moved to the right. That is an</p> <p>21 Upstate court that I was hired on.</p> <p>22 Q. Is that Kent County?</p> <p>23 A. It was Kent -- Kent -- Kent.</p> <p>24 Yeah, I don't know.</p> <p>25 I would have written it out with</p>
<p style="text-align: right;">Page 103</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. So I have noticed some of these</p> <p>3 start dates are after your expulsion from the</p> <p>4 TVB. For instance, I am looking at the</p> <p>5 bottom of page P191, and there is two --</p> <p>6 there is a number of items that are marked</p> <p>7 Thursday, May 21, 2015. One is BS, one is</p> <p>8 appeal, one is STLISL, and one Kent.</p> <p>9 Can you explain to me what those</p> <p>10 mean?</p> <p>11 A. Yeah, I don't know. Maybe that</p> <p>12 is just a clerical error.</p> <p>13 I know I took on no new cases</p> <p>14 after I was removed. I don't know how that</p> <p>15 happened. Maybe it was just a clerical --</p> <p>16 Q. What is --</p> <p>17 A. I don't know. I seriously I</p> <p>18 don't know. I don't know.</p> <p>19 Q. What do those four -- my</p> <p>20 apologies, Mr. Capogrosso. You can keep</p> <p>21 answering, if you have more that you need to</p> <p>22 say.</p> <p>23 A. I don't know why that is like</p> <p>24 that. I don't understand that.</p> <p>25 I know I didn't appear in any</p>	<p style="text-align: right;">Page 105</p> <p>1 Mario H. Capogrosso</p> <p>2 the Kent County Village Court Upstate.</p> <p>3 Q. And so the due date starts on</p> <p>4 May 11, 2015, because these are future cases</p> <p>5 that you were going to handle in the future;</p> <p>6 is that correct?</p> <p>7 A. Yes, that I was not able to.</p> <p>8 Q. Can you explain how you billed</p> <p>9 your cases? Did you charge by the hour or</p> <p>10 case?</p> <p>11 A. The motorists would come in.</p> <p>12 They knew me. They would approach me.</p> <p>13 I never approached a motorist,</p> <p>14 never. There were signs all over the place</p> <p>15 not to -- the other attorneys did, solicited</p> <p>16 left and right. I didn't.</p> <p>17 They approached me, asked me if I</p> <p>18 am a lawyer. A lot of guys knew me already,</p> <p>19 they walked up to me. You want to take the</p> <p>20 case? Yes. Took out my legal pad. I wrote</p> <p>21 down their name, their phone number, their</p> <p>22 license ID, license number, their date of</p> <p>23 birth, which is the information I needed.</p> <p>24 The court in which it was in,</p> <p>25 which is mostly Brooklyn South. I wrote them</p>

<p style="text-align: right;">Page 106</p> <p>1 Mario H. Capogrosso</p> <p>2 a receipt the way all the attorneys did it.</p> <p>3 We wrote it on the back of a business card,</p> <p>4 for the most part. Put the total, the amount</p> <p>5 paid, the amount owed. I gave them the</p> <p>6 receipt. I had my legal pad, showed</p> <p>7 everything, all the information I took.</p> <p>8 And I calendared it. I put it in</p> <p>9 my calendar. Oftentimes these due dates got</p> <p>10 changed, all the time. All the time, the due</p> <p>11 dates got changed. Cases were being</p> <p>12 rescheduled constantly.</p> <p>13 Albany has the ability to</p> <p>14 reschedule a case. The motorist can</p> <p>15 reschedule a case. The police officer can</p> <p>16 reschedule a case. I can reschedule a case.</p> <p>17 The DMV can reschedule a case. The cases got</p> <p>18 rescheduled all the time. Those due dates</p> <p>19 changed all the time.</p> <p>20 Q. So, Mr. Capogrosso, that</p> <p>21 wasn't -- I appreciate that.</p> <p>22 I think the question was a little</p> <p>23 bit narrower, which was how did you charge</p> <p>24 for your services? Did you bill by the hour?</p> <p>25 A. No, each ticket. Each ticket.</p>	<p style="text-align: right;">Page 108</p> <p>1 Mario H. Capogrosso</p> <p>2 Predominately it was 150 or a hundred. If it</p> <p>3 was done that day, and they walked in that</p> <p>4 day, I charged a hundred. But that is how I</p> <p>5 did it.</p> <p>6 Q. I think the most I saw for any of</p> <p>7 the cases on here was 250.</p> <p>8 What would be a \$250 case?</p> <p>9 A. That was Queens South. So I</p> <p>10 would have to travel down to Queens South. I</p> <p>11 couldn't be in the Brooklyn South Traffic</p> <p>12 Violations Bureau, so I had to reschedule to</p> <p>13 make sure I was there. And that is the fee</p> <p>14 we agreed on.</p> <p>15 Q. Okay. So why did you redact the</p> <p>16 items in the middle?</p> <p>17 A. It was client information. I</p> <p>18 didn't feel comfortable revealing it. Names,</p> <p>19 phone numbers, ID numbers, driver's license</p> <p>20 ID numbers, dates of births, phone numbers, I</p> <p>21 am not going to give you that information.</p> <p>22 It is not right.</p> <p>23 Q. Is there any legal authority for</p> <p>24 you to redact that?</p> <p>25 A. It is just client information.</p>
<p style="text-align: right;">Page 107</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. So you billed by the ticket?</p> <p>3 A. Yeah. 150, 250. The total was</p> <p>4 the amount I billed. That column that says</p> <p>5 total, that is the amount that I charged.</p> <p>6 Q. And how did you know how much to</p> <p>7 charge?</p> <p>8 A. Which is what everybody -- just</p> <p>9 the going rate that everybody was charging.</p> <p>10 If the case was in Brooklyn</p> <p>11 South, and it was that day, normally I</p> <p>12 charged a hundred. If it was -- you know,</p> <p>13 other than that, I normally charge 150,</p> <p>14 because the case, like I say, got pushed out</p> <p>15 several times over.</p> <p>16 If it was that day, it was</p> <p>17 charged a hundred. If it was like, I don't</p> <p>18 know, tinted window, I charged less, because</p> <p>19 it didn't carry no point violations.</p> <p>20 If it was in another county, I</p> <p>21 charged more, because I had to travel there.</p> <p>22 If it was like in Manhattan</p> <p>23 South, I would charge 200, because I had to</p> <p>24 travel and be at a different courthouse.</p> <p>25 That is pretty much how I did it.</p>	<p style="text-align: right;">Page 109</p> <p>1 Mario H. Capogrosso</p> <p>2 It is privileged information. I am not going</p> <p>3 to give you my client's phone numbers. I am</p> <p>4 not going to do that. I don't think it's</p> <p>5 appropriate, or their name. It is not</p> <p>6 appropriate. Or their New York driver's</p> <p>7 license ID, I don't think it's appropriate.</p> <p>8 I don't think it is relevant and material.</p> <p>9 To me, it is privileged information.</p> <p>10 Q. Did you seek -- did you seek a</p> <p>11 protective order or confidentiality order?</p> <p>12 A. No, I did not.</p> <p>13 Q. All right. So I will show you,</p> <p>14 Mr. Capagrosso, in what you produced to us,</p> <p>15 the pages there is a gap between pages 201</p> <p>16 and 206. Are you aware of that? It goes</p> <p>17 straight from 201 down to 206. Why didn't</p> <p>18 you produce the pages in between?</p> <p>19 A. No, I produced it. I have to</p> <p>20 look.</p> <p>21 How did I send this to you?</p> <p>22 Maybe your -- maybe your -- I sent you this.</p> <p>23 Maybe your -- I walked this down to your</p> <p>24 office. I didn't scan it and send it to you,</p> <p>25 I walked this down to your office.</p>

<p style="text-align: right;">Page 110</p> <p>1 Mario H. Capogrosso</p> <p>2 Maybe the person who scanned it</p> <p>3 didn't scan it in properly. I didn't leave</p> <p>4 out anything. None. Maybe somebody in your</p> <p>5 office that scanned it improperly.</p> <p>6 Q. Okay. So you are confident --</p> <p>7 A. Yes, I am. Absolutely. I left</p> <p>8 nothing out.</p> <p>9 Q. You are confident you produced</p> <p>10 everything, correct?</p> <p>11 A. Yes. And I will get you those</p> <p>12 missing pages, I will. I don't think I</p> <p>13 misnumbered this.</p> <p>14 Q. So you indicated that the lost</p> <p>15 revenue was \$122,715 for 15 months; is that</p> <p>16 correct?</p> <p>17 A. That was the money remaining on</p> <p>18 my docket, yes, that I couldn't finish.</p> <p>19 Q. And did you divide that by adding</p> <p>20 up this column paid?</p> <p>21 A. No, the total column, total.</p> <p>22 Q. So did that assume that everyone</p> <p>23 was going to pay you what they owed?</p> <p>24 A. Yes, the money that was due.</p> <p>25 Q. Does everyone always pay you what</p>	<p style="text-align: right;">Page 112</p> <p>1 Mario H. Capogrosso</p> <p>2 practice?</p> <p>3 A. I had a -- I had a virtual office</p> <p>4 up in Hawthorne, Connecticut, where I</p> <p>5 received mail, where I can receive clients.</p> <p>6 You can use the conference room. I had my</p> <p>7 home office I used. I had an apartment in</p> <p>8 Brooklyn at the time. I had travel expenses.</p> <p>9 I had my home -- we have the home up here in</p> <p>10 New Rochelle. What else? Travel expenses.</p> <p>11 What else do you have? You have the bridges</p> <p>12 going back and forth, gas, the tolls. That</p> <p>13 is it, normal operating expenses.</p> <p>14 Laptop, desktop, copier, paper,</p> <p>15 You know, my dues, my association dues to</p> <p>16 practice law, my license dues, my CLE dues,</p> <p>17 all that stuff.</p> <p>18 Q. So why didn't you include your</p> <p>19 expenses in your calculation?</p> <p>20 A. I didn't think I needed to.</p> <p>21 My expenses are my expenses.</p> <p>22 That is the total money that I</p> <p>23 was owed.</p> <p>24 My expenses are my expenses.</p> <p>25 Q. But if you weren't practicing</p>
<p style="text-align: right;">Page 111</p> <p>1 Mario H. Capogrosso</p> <p>2 they owe?</p> <p>3 A. Yeah, for the most part. My</p> <p>4 clients are very -- for the most part, yes.</p> <p>5 Yes.</p> <p>6 Q. But sometimes people don't?</p> <p>7 A. For the most part, my clients</p> <p>8 paid me. They liked me, and they paid me,</p> <p>9 and they respected what I did for them in a</p> <p>10 courtroom, they did. I rarely had a</p> <p>11 problem --</p> <p>12 Q. Wouldn't it be true that --</p> <p>13 wouldn't it be true to say that sometimes</p> <p>14 clients don't pay what they owe?</p> <p>15 A. For the most part, my client</p> <p>16 always paid. They paid.</p> <p>17 Q. But not always, correct?</p> <p>18 A. I don't recall when they didn't.</p> <p>19 I really don't.</p> <p>20 My clients paid me. They liked</p> <p>21 me, my clients. They respected what I did</p> <p>22 for them in a courtroom, and they paid me.</p> <p>23 Q. So you indicated that \$122,715</p> <p>24 figure was lost revenue.</p> <p>25 What were your expenses for your</p>	<p style="text-align: right;">Page 113</p> <p>1 Mario H. Capogrosso</p> <p>2 law, didn't you not need to pay for a great</p> <p>3 deal of those expenses?</p> <p>4 A. What does that have to do with</p> <p>5 the money I could have generated? I don't</p> <p>6 understand. It is not relevant. Has nothing</p> <p>7 do with my expenses, with the money I could</p> <p>8 have been given. Nothing to do with it.</p> <p>9 Q. So it is your testimony that it</p> <p>10 wouldn't have cost you any money to make this</p> <p>11 money?</p> <p>12 A. It would have cost me money to</p> <p>13 make this money.</p> <p>14 Q. So why didn't you include your</p> <p>15 expenses in your calculations of your damage?</p> <p>16 A. Including my expenses, I didn't</p> <p>17 think it was relevant. That is the money I</p> <p>18 was owed. To me, it is not -- why expenses</p> <p>19 should be taken off of the total revenue to</p> <p>20 me, it was not relevant. That is the money I</p> <p>21 was owed.</p> <p>22 Q. Okay. And in terms of --</p> <p>23 A. Wait. Wait. Wait. Let me think</p> <p>24 about this question for a minute.</p> <p>25 Q. Sure.</p>

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1 Mario H. Capogrosso
 2 A. Because I have to understand what
 3 you're saying here.
 4 Total money owed, you are saying
 5 that I should take off my expenses.
 6 Let me try to understand it.
 7 That is the money I was owed, that is it.
 8 That is the money was I owed and the money I
 9 lost.
 10 Q. Okay. And your expenses included
 11 the virtual office in Connecticut, home
 12 office in --
 13 A. No, no. Virtual office was
 14 Hawthorne, New York.
 15 Q. Apologies. The virtual office in
 16 Hawthorne, New York, the mail in Connecticut,
 17 home office, Brooklyn apartment, CLE, bar
 18 fees, travel, wear and tear on the car.
 19 Anything else?
 20 A. Yeah. There was no mail in
 21 Connecticut.
 22 Q. Didn't you say you had a place in
 23 Connecticut where you received mail?
 24 A. No, no, no, no. I received my
 25 mail -- at that point I had an apartment in

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1 Mario H. Capogrosso
 2 Brooklyn. We have a home up here in
 3 New Rochelle.
 4 No. I was licensed in
 5 Connecticut. I did have a couple of cases in
 6 Connecticut, only a couple which did not
 7 involve the TVB; but I do have an office in
 8 Connecticut.
 9 Q. So, Mr. Capogrosso, do you recall
 10 that we asked you for your tax returns from
 11 the relevant period?
 12 A. Yes.
 13 Q. And did you produce them?
 14 A. No.
 15 Q. Why not?
 16 A. Because I don't think they are
 17 relevant material. I do not.
 18 Q. Why don't you think so?
 19 A. Because I am showing you what I
 20 could have made right there. I showed you
 21 what I could have made. I have given you all
 22 the money that I generated.
 23 My tax returns are my tax
 24 returns. I don't think they are relevant
 25 material. I have shown you the money that I

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1 Mario H. Capogrosso
 2 collected. I have shown you that.
 3 Now, did I earn all that money?
 4 No. I showed you the money that I could have
 5 collected.
 6 Q. Mr. Capogrosso, how much income
 7 did you claim on your taxes in 2013?
 8 A. I don't recall.
 9 Q. Do you recall --
 10 A. Was it everything -- all the
 11 revenue showed here? No. Not all the
 12 revenue is shown here, because these tickets
 13 were not necessarily completed on the due
 14 date. And I didn't earn this money until I
 15 completed the ticket.
 16 For example, a ticket that was
 17 due date on May 11, 2015 might not get done,
 18 completed for two years from that date. Two
 19 years. Cases got rescheduled constantly.
 20 Q. So the actual income that you
 21 would report on your taxes would be lower; is
 22 that correct?
 23 A. Yes, lower. Because that was the
 24 money, the money when I completed the cases,
 25 when I actually completed it. That, to me,

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1 Mario H. Capogrosso
 2 then I finally earned that money. Until I
 3 completed the case, I didn't earn it.
 4 Q. Mr. Capogrosso, do you have an
 5 estimate of how much money you claimed as
 6 income on your taxes in 2013, ballpark
 7 figure?
 8 A. What I am showing here is I would
 9 bring in about 8,000 a month. Bring in,
 10 which is what this works out to. But you
 11 didn't complete \$8,000 worth of work in a
 12 month, you didn't complete it. That is what
 13 you brought in. You might have finished, you
 14 know, maybe 11, 1200 a week, maybe, where you
 15 actually completed 11, 1200 dollars worth of
 16 work a week.
 17 You know, that is what I would
 18 have completed.
 19 Probably what you brought in was
 20 more.
 21 Q. So I apologize if I don't quite
 22 understand.
 23 You would have completed about 11
 24 or 1200 dollars worth of work per week, but
 25 you would have brought in a little more.

<p style="text-align: right;">Page 118</p> <p>1 Mario H. Capogrosso</p> <p>2 Can you explain that?</p> <p>3 A. Bring in clients, you bring in</p> <p>4 revenue.</p> <p>5 Like I said, a guy would hire me,</p> <p>6 give me a ticket. You might collect \$2,000</p> <p>7 worth of tickets in a week or \$8,000 in a</p> <p>8 month.</p> <p>9 But the cases that were actually</p> <p>10 finished in that month or in that week would</p> <p>11 be about 11 to 1200 dollars, around that</p> <p>12 figure a week.</p> <p>13 Q. And it is not income for you</p> <p>14 until the case is completed; is that correct?</p> <p>15 A. Absolutely. Absolutely. I have</p> <p>16 not earned that money until I argue that</p> <p>17 case. I have not earned that money until I</p> <p>18 personally appeared and argue that case. I</p> <p>19 have not earned that money.</p> <p>20 Q. Understood.</p> <p>21 So do you have an estimate of how</p> <p>22 much income you would claim on your taxes in</p> <p>23 2013, 2014?</p> <p>24 A. I don't recall. Probably would</p> <p>25 have been 11 to 1200 dollars a week. That</p>	<p style="text-align: right;">Page 120</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. Well, I am sure as heck not ready</p> <p>3 to pay my 2020 taxes, so I won't ask you for</p> <p>4 your estimates for this year, because I</p> <p>5 certainly have no idea.</p> <p>6 So let's go back to Exhibit 1.</p> <p>7 A. Yeah.</p> <p>8 Q. Switching my screen back to that.</p> <p>9 MR. THOMPSON: Can everyone see</p> <p>10 Exhibit 1?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. THOMPSON: And, Madam Court</p> <p>13 Reporter, before we are done with</p> <p>14 Exhibit 2, had I asked you to mark that</p> <p>15 yet?</p> <p>16 THE COURT REPORTER: I can check</p> <p>17 for you. Off the top of my head, I</p> <p>18 don't remember, Counsel.</p> <p>19 MR. THOMPSON: There is no need</p> <p>20 to check. Let me just ask you now to</p> <p>21 please have that marked as Exhibit 2.</p> <p>22 (Whereupon, a document was deemed</p> <p>23 marked as Exhibit 2 for identification,</p> <p>24 as of this date.)</p> <p>25 THE COURT REPORTER: Before we</p>
<p style="text-align: right;">Page 119</p> <p>1 Mario H. Capogrosso</p> <p>2 was work that I actually completed, actually</p> <p>3 completed for the week.</p> <p>4 Q. And do you recall approximately</p> <p>5 how much income you claimed on your taxes in</p> <p>6 2015?</p> <p>7 A. No.</p> <p>8 Q. What about in 2016, the year</p> <p>9 after the first full year when you were no</p> <p>10 longer work at the TVB? Do you recall how</p> <p>11 much money you claimed on your taxes?</p> <p>12 A. No.</p> <p>13 Q. And 2017 and 2018, do you also</p> <p>14 not recall?</p> <p>15 A. Well, in '18 I was working for</p> <p>16 Jiang. Like I said, he was paying me 85,000</p> <p>17 year, 85,000.</p> <p>18 But I was a 1099, so that is what</p> <p>19 it would have been. The Law Firm of Yuan</p> <p>20 Jiang, I know he was paying me 85 a year.</p> <p>21 Q. And so the same for 2019?</p> <p>22 A. Yeah. But I started with Jiang</p> <p>23 in March of 2018, and 2019 it would have been</p> <p>24 a full. But this part of 2020, I stopped</p> <p>25 working for him on March 17, 2020.</p>	<p style="text-align: right;">Page 121</p> <p>1 Mario H. Capogrosso</p> <p>2 continue, can we take a break?</p> <p>3 MR. THOMPSON: Sure. Actually</p> <p>4 yeah, let's take a quick five-minute</p> <p>5 break.</p> <p>6 Is that fine with you,</p> <p>7 Mr. Capogrosso?</p> <p>8 THE WITNESS: Yes. 11:45?</p> <p>9 MR. THOMPSON: 11:45.</p> <p>10 THE VIDEOGRAPHER: The time is</p> <p>11 11:40. We are off the record.</p> <p>12 (Whereupon, a short recess was</p> <p>13 taken at 11:40).</p> <p>14 (Time noted: 11:40 a.m.)</p> <p>15</p> <p>16 _____</p> <p>17 MARIO H. CAPOGROSSO</p> <p>18 Subscribed and sworn to before me this</p> <p>19 _____ day of _____, 2020.</p> <p>20 _____, Notary</p> <p>21 Public.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 I, MARIA ACOCELLA, a Notary Public within</p> <p>5 and for the State of New York, do hereby</p> <p>6 certify:</p> <p>7 That the witness whose deposition is</p> <p>8 hereinbefore set forth, was duly sworn by me</p> <p>9 and that the within transcript is a true</p> <p>10 record of the testimony given by such</p> <p>11 witness.</p> <p>12 I further certify that I am not related to</p> <p>13 any of the parties to this action by blood</p> <p>14 or marriage and that I am in no way</p> <p>15 interested in the outcome of this matter.</p> <p>16 IN WITNESS WHEREOF, I have hereunto set my</p> <p>17 hand this 5th day of January, 2021.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> <div style="width: 5%; text-align: center;"> <p>1</p><p>2</p><p>3</p><p>4</p><p>5</p><p>6</p><p>7</p><p>8</p><p>9</p><p>10</p><p>11</p><p>12</p><p>13</p><p>14</p><p>15</p><p>16</p><p>17</p><p>18</p><p>19</p><p>20</p><p>21</p><p>22</p><p>23</p><p>24</p><p>25</p> </div> </div>	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> <div style="width: 5%; text-align: center;"> <p>1</p><p>2</p><p>3</p><p>4</p><p>5</p><p>6</p><p>7</p><p>8</p><p>9</p><p>10</p><p>11</p><p>12</p><p>13</p><p>14</p><p>15</p><p>16</p><p>17</p><p>18</p><p>19</p><p>20</p><p>21</p><p>22</p><p>23</p><p>24</p><p>25</p> </div> </div>

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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